

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : 18-CR-538 (MKB)

-against-

United States Courthouse
Brooklyn, New York

NG CHONG HWA, also known as "Roger Ng,"

Thursday, March 3, 2022
9:30 a.m.

Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE MARGO K. BRODIE
UNITED STATES CHIEF DISTRICT JUDGE
BEFORE A JURY

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5 Proceedings recorded by computerized stenography. Transcript
6 produced by Computer-aided Transcription.

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Proceedings

1698

1 (In open court.)

2 (Defendant present.)

3 (The following occurs outside the presence of the jury.)

4 THE COURTROOM DEPUTY: Criminal case for a trial,
5 Docket Number 18-CR-538.

6 THE COURT: And all appearances continue.

7 MR. AGNIFIL0: Yes, good morning, Your Honor.

8 MR. ROLLE: Good morning, Your Honor.

9 THE COURT: Good morning, everyone. Please be
10 seated, or you can stand until the jury comes in.

11 (The jury enters the courtroom.)

12 THE COURT: Please be seated, everyone.

13 Good morning, members of the jury.

14 JURORS: Good morning.

15 THE COURT: I hope you all had a great night. We
16 are going to continue today.

17 Mr. Leissner, you are still under oath.

18 And, Mr. Agnifilo, you may proceed.

19 MR. AGNIFIL0: Thank you, Your Honor.

20 **TIM LEISSNER,**

21 called as a witness, having been previously duly
22 sworn, was examined and further testified as follows:

23 **CONTINUED CROSS-EXAMINATION**

24 **BY MR. AGNIFIL0:**

25 Q Good morning, Mr. Leissner.

Leissner - cross - Agnifilo

1699

1 A Good morning.

2 Q When we left off yesterday, we were in the early March
3 time period of 2012.

4 MR. AGNIFILO: And I want to offer for
5 identification Defense Exhibit 2213.

6 Q Just let me know when you have that up in front of you.

7 A I have it in front of me.

8 Q Okay. And do you see that bottom e-mail that's on your
9 screen, that's from yourself to others at Goldman Sachs;
10 correct?

11 A Yes, but I can't see the actual e-mail.

12 Q I'm sorry. Let's pull it up on the screen.

13 A Yes, sir.

14 Q And these are e-mails between yourself and Goldman and as
15 well as Jasmine; right?

16 A That's correct.

17 MR. AGNIFILO: We offer it as 2213.

18 MR. ROLLE: No objection.

19 THE COURT: 2213?

20 MR. AGNIFILO: Yes, Judge. 2213.

21 THE COURT: It's admitted.

22 (Defendant's Exhibit 2213 received in evidence.)

23 (Exhibit published.)

24 Q Okay. So let's focus on that e-mail that's up now for
25 everyone. And that is from you. It's to Jasmine.

Leissner - cross - Agnifilo

1700

1 Do you see that?

2 A Yes, sir.

3 Q And it's copying to Roger, Jane Lah, Cyrus Shey and Andy
4 Tai; right?

5 A Correct.

6 Q And it's dated Friday, March 9th, 2012; right?

7 A Right.

8 Q It says, "Jasmine, I'm on a plane now to HK" -- that's
9 Hong Kong; right?

10 A Yes.

11 Q "But had a good day in Abu Dhabi"?

12 A Yes, sir.

13 Q Okay. And -- so, you were in -- and it was your
14 recollection you were in Abu Dhabi on March 9th?

15 A No, I don't recall that. But from that e-mail, it looks
16 like it.

17 Q Okay. And you go on to say in the next sentence, "They
18 want to move very fast and we need to give them the
19 documentation."

20 Do you see that?

21 A Yes, sir.

22 Q Who is the "they" that you referred to in that sentence?
23 When you say "they want to move very fast," who are you
24 talking about?

25 A The Abu Dhabi side of the team.

Leissner - cross - Agnifilo

1701

1 Q Being?

2 A Meaning IPIC and Aabar.

3 Q Okay. And if we could go -- you were taken off of this
4 e-mail; in other words, it's from you and then, Mr. Ng other
5 people, it goes to Jane Lah.

6 Do you see that?

7 A Yes, sir.

8 Q If we could go up, Jane Lah sends it off to a number of
9 other people, but doesn't include you on it.

10 Do you see that?

11 A Yes, sir.

12 Q Okay. And so you don't get that e-mail because you're
13 not on it. And then it goes on -- then Jane Lah forwards it
14 again to Roger, and then Roger is on the top e-mail.

15 Do you see that?

16 A You have to enlarge it. It's a little bit --

17 Q I'm sorry. My apologies. I didn't realize we didn't
18 have it up.

19 A Okay. I see it now.

20 Q You see it now. Okay.

21 So what Roger says is that, quote, I just met with
22 Jasmine and Terence on the OC 1MDB financials.

23 He says that; right?

24 A Yes, sir.

25 Q They will instruct KPMG to do review up to 31, December

Leissner - cross - Agnifilo

1702

1 2011; right?

2 A Yes.

3 Q And what role did KPMG have at this time?

4 A They were the auditors of 1MDB.

5 Q Okay. And just tell the jury generally, what does that
6 mean, that KPMG is the auditors of 1MDB?

7 What do they do?

8 A Certainly.

9 Every company that operates, in general, has
10 financials: Revenues, costs, a balance sheet, cash flows.
11 It's really just showing the financials of the company.

12 If you're a certain size or you're a public company
13 like this or you're listed on the stock exchange, in most
14 instances you require an auditor to verify that the financials
15 that you have -- that you have billed up as part of your
16 operations are, in fact, correct.

17 Again, for a public company at 1MDB, that means
18 those financial are audited. They go to the Government and
19 are part of the operation of the company. A public entity
20 that's listed that goes to investors, shareholders, stock
21 holders, et cetera.

22 So an audit is a very important event that happens
23 at least once a year for a company.

24 Q Very good.

25 And just going back to the -- and I apologize for

Leissner - cross - Agnifilo

1703

1 jumping around -- to that first e-mail we all looked at. And
2 you say I'm on a plane now to HK but had a good day in Abu
3 Dhabi?

4 A Yes.

5 Q Does this refresh your recollection that you were not
6 with Roger in Abu Dhabi as of March the 9th?

7 A No, sir. It does not in itself, no.

8 Q Okay. Were you with Jasmine on March the 9th? Do you
9 remember?

10 A No, I don't.

11 Q Were you with -- to your knowledge, were you with any of
12 the people on this e-mail here, meaning Roger, Jane Lah, Cyrus
13 Shey or Andy Tai, on that particular day?

14 A I don't remember, sir, not on this particular day at
15 least.

16 Q All right. We're going to move ahead. We're going to
17 move ahead to March 19, 2012. So now we're talking about 10
18 days later.

19 And I'm going to ask you to look for identification
20 -- that's a Government Exhibit. It's Government Exhibit GX
21 1351A, page 11. I'm just going to ask you to look at it to
22 refresh your recollection -- I'm sorry, for identification.

23 A Sure.

24 MR. AGNIFIL0: Let's see if we can make that a
25 little bit bigger. Okay.

Leissner - cross - Agnifilo

1704

1 Q Do you see that okay?

2 A Yes, sir.

3 Q And that's your handwriting?

4 A Yes, it is.

5 MR. AGNIFIL0: Your Honor --

6 Q And this is a receipt for a meal of some sort?

7 A Yes, sir.

8 MR. AGNIFIL0: We offer it.

9 MR. ROLLE: No objection.

10 THE COURT: It's admitted.

11 (Government's Exhibit 1351A received in evidence.)

12 (Exhibit published.)

13 Q Okay. Let's just pull that up. Okay, all right. So
14 what we see here is that this is dated March 19, 2012;
15 correct?

16 A Yes, sir.

17 Q And if we could just go up a little bit to the top part
18 of that receipt. There we go. Okay. Shangri-La, that's a
19 hotel in Kuala Lumpur?

20 A Yes, sir.

21 Q Let's go back down. You told us already that's your
22 handwriting?

23 A Correct.

24 Q The first person there, that's Ralph Marshall?

25 A Yes, sir.

Leissner - cross - Agnifilo

1705

1 Q I know you have spoken about him. Just remind us who was
2 Ralph Marshall?

3 A Ralph Marshall was an executive director at Usaha Tegas
4 Group, which was Ananda Krishnan's group.

5 Q You have Chan Chee Beng?

6 A Yes.

7 Q Okay. And Chan Chee Beng worked with Usaha Tegas Group
8 as well?

9 A Correct, he also was an executive director.

10 Q And then is that Shahrol Halmi?

11 A Correct.

12 Q All right. Just so we all remember, Shahrol Halmi was
13 the CEO of 1MDB; right?

14 A That's correct.

15 Q And then we have Jasmine Loo; right?

16 A Correct.

17 Q All right. And then who's -- is it Seva (phonetic) or
18 Siva?

19 A Yes.

20 Q And who is that?

21 A He was working for Chee Beng in the UT Group, the Usaha
22 Tegas Group.

23 Q And then yourself; correct?

24 A That's right.

25 Q Okay. At this particular meal, we have a number of

Leissner - cross - Agnifilo

1706

1 people UT, from Usaha Tegas?

2 A Right.

3 Q We have Jasmine from 1MDB?

4 A Correct.

5 Q Okay. We have the CEO of 1MDB, and we have you?

6 A That's right.

7 Q And do you remember what you were talking about around
8 this period of time?

9 A Around this period of time we were discussing the
10 acquisition of the Tanjong power assets.

11 MR. AGNIFIL0: Okay. We're going to go to the next
12 day and this is GX 1351 at page -- 1351A at page 12.

13 THE COURT: Admitted or for ID?

14 MR. AGNIFIL0: It's not admitted, Judge. It's for
15 identification.

16 MR. ROLLE: Your Honor, we don't object to admitting
17 A in its entirety.

18 THE COURT: Is it one document?

19 MR. AGNIFIL0: It is, Judge. It's one document with
20 many, many pages, so.

21 THE COURT: Okay. So I will admit the entire
22 document.

23 (Government Exhibit 1351A received in evidence.)

24 (Exhibit published.)

25 MR. AGNIFIL0: And this is page 12 of that document,

Leissner - cross - Agnifilo

1707

1 okay.

2 Q All right. Now we have -- that's your handwriting on
3 that?

4 A That's right.

5 Q That's you and Jasmine Loo?

6 A Correct.

7 MR. AGNIFILO: If we can enlarge the date which is
8 on the right, under Emirates Palace, on the other side. There
9 you go.

10 Q All right. March the 20, 2012?

11 A Yes, sir.

12 Q Okay. Just so we understand what's happening here, so,
13 on the 19th, you are in Kuala Lumpur; correct?

14 A Yes, sir.

15 Q And you were having a meal with the people you just
16 indicated and Jasmine Loo; right?

17 A Yes.

18 Q Now, it's the next day. And the Emirates Palace is in
19 Abu Dhabi; correct?

20 A That's right.

21 Q So what this is telling us is that you and Jasmine Loo,
22 between the 19th and the 20th, flew to Abu Dhabi; correct?

23 A Correct.

24 Q Do you remember doing that?

25 A Not necessarily on those dates, but you have to realize

Leissner - cross - Agnifilo

1708

1 those days we had so many work streams that we had frequent
2 travels to Abu Dhabi and, of course, Kuala Lumpur inherently
3 because that's where 1MDB was based.

4 Q Understood. I'm just asking if you remember this
5 particular trip?

6 A This particular trip, no.

7 Q Now, going to the next Defense Exhibit. It is for
8 identification as 2215.

9 MR. AGNIFIL0: And that's just for the witness for
10 the time being.

11 Q Okay. And this is from you. And this is a calendar
12 entry showing a flight?

13 A Yes, sir.

14 MR. AGNIFIL0: Okay. We offer it, Your Honor, as
15 2215.

16 MR. ROLLE: No objection.

17 THE COURT: It's admitted.

18 (Defendant's Exhibit 2215 received in evidence.)

19 (Exhibit published.)

20 MR. AGNIFIL0: All right. I'm going to show that to
21 the jury.

22 Q Okay. So, what this shows, and tell me if I'm wrong, is
23 that on March the 20th and extending into March the 21st, you
24 fly from the United Arab Emirates to Jakarta; correct?

25 A Yes, sir.

Leissner - cross - Agnifilo

1709

1 Q And do you remember why you were going to Jakarta on
2 March the 21st?

3 A No, sir. I can't remember. That was one of the
4 countries I covered at the time, but I can't remember why I
5 was going there at that time.

6 Q We're going to move on to March -- you don't recall how
7 long you were there, who you met with, what you did, or
8 anything like that?

9 A On this particular trip, you mean?

10 Q Yes.

11 A No, sir.

12 MR. AGNIFIL0: We're going to go to the next Defense
13 Exhibit, which is for identification, although I think it is
14 admitted as a Government Exhibit. Oh, I'm sorry. It is
15 admitted as Government Exhibit. I think it is admitted as
16 2265 as a Government Exhibit, Judge.

17 THE COURT: I have 64 and 2266.

18 MR. ROLLE: It is marked and not admitted, though,
19 Judge, on our record.

20 MR. AGNIFIL0: We're going to mark it for
21 identification as a Government Exhibit for the time being and
22 it's Government Exhibit 2265 and I'm going to show that to the
23 witness.

24 Q Can you see that. Okay?

25 A Yes, sir.

Leissner - cross - Agnifilo

1710

1 Q And just -- it is an e-mail correspondence between
2 yourselves and Jho Low; is that correct?

3 A That's correct.

4 MR. AGNIFILO: We offer it Government Exhibit 2265.

5 MR. ROLLE: No objection.

6 THE COURT: It's admitted.

7 (Government's Exhibit 2265 received in evidence.)

8 (Exhibit published.)

9 MR. AGNIFILO: Let's go to the second page of that.
10 It looks like e-mails on two separate pages. So the second of
11 those two pages.

12 And if we could just enlarge the top so that
13 everybody could see the top a little more clearly. That's
14 great. Okay.

15 Q So this is Saturday, March the 24th. It's from Jho Low.
16 It's to yourself; correct?

17 A That's correct.

18 Q Subject is Pexco; right?

19 A Yes.

20 Q And I think we discussed Pexco in passing, but just
21 remind us what Pexco is.

22 A Pexco was a number of oil gas fields or assets that Usaha
23 Tegas Group owned.

24 Q Okay. And let's go down to the body of that e-mail. We
25 don't have to go through the whole thing, but just maybe the

Leissner - cross - Agnifilo

1711

1 top of it and the first couple of entries. That's fine.

2 MR. AGNIFIL0: Maybe capture that right side. Can
3 we just move it to the right a little bit.

4 A Yes, sir. I have reviewed the document.

5 Q Can you see it?

6 A Yes, sir.

7 MR. AGNIFIL0: If you can see it and maybe if
8 everyone can see it, I will keep it -- maybe I'm the one who
9 can't see it. Keep it the way it is.

10 Q It says, "Tim, please ask our friends and revert re the
11 below."

12 Do you see that?

13 A Yes, sir.

14 Q Okay. Who do you understand Low to be asking you to
15 speak to when he refers to our friends?

16 A The people at the Usaha Tegas Group.

17 Q Okay. And what was going on with Pexco, just tell us
18 very briefly, why are you and Low talking about Pexco and what
19 does Low want you to do with the Usaha Tegas Group?

20 A The Usaha Tegas Group, around this time, was thinking of
21 divesting, selling those assets. Jho was very interested -- I
22 think we had covered this to some to the extent yesterday as
23 well -- to buy either personally or together with some of the
24 sovereign wealth funds that he had a relationship with oil and
25 gas assets around the world. So given that Ananda was trying

Leissner - cross - Agnifilo

1712

1 to sell his assets, Jho wanted to look at them as a potential
2 acquisition.

3 Q All right. So let's go to the next e-mail, which is that
4 same day. It's a DX 2219.

5 THE COURT: For identification?

6 MR. AGNIFILO: For identification. For
7 identification.

8 I'm going to make that a little bigger for you.

9 Q You can see that. Okay?

10 A Yes, sir.

11 Q And this is e-mails between yourself and Ananda Krishnan?

12 A That's correct.

13 MR. AGNIFILO: Your Honor, we offer it as Defense
14 Exhibit 2219.

15 MR. ROLLE: No objection.

16 THE COURT: It's admitted.

17 (Defendant's Exhibit 2219 received in evidence.)

18 (Exhibit published.)

19 Q Let's go to the bottom of the two e-mails on that page.
20 It is from Ananda Krishnan. It's to yourself. It's dated
21 March 24th; correct?

22 A That's correct.

23 Q It says, "Dear Tim, we can plan on having dinner on
24 Monday night, March 26th, and I will make the reservation"?

25 Do you see that?

Leissner - cross - Agnifilo

1713

1 A Correct, sir. Yes.

2 Q It goes on to say, "See you at the Four Seasons." It
3 gives the address. "We'll leaving the airport around 2230.
4 Call me in the afternoon when you get to New York"; right?

5 A Yes, sir.

6 Q Okay. So you're planning on meeting Ananda Krishnan in
7 New York as of March the 24th?

8 A Yes, sir.

9 Q All right. Let's go to the top e-mail. And this is from
10 you to Krishnan, and you're basically confirming what he said:
11 "That sounds terrific. I look forward to seeing you in New
12 York and will ring when I land. Kind regards. Wishing you
13 safe travels"; right?

14 A Correct. Yes.

15 MR. AGNIFIL0: Okay. Now we're going to go to 2221
16 for identification.

17 A Yes.

18 MR. AGNIFIL0: Actually, my mistake. I'm two days
19 ahead. Can we go back to Government Exhibit 2265. I forgot
20 to read the first page. It's the one we just looked at a few
21 minutes ago, 2265 in evidence.

22 Q Okay. So let's look at that, we're going to look at the
23 bottom e-mail first, the one that starts from Jho Low to Tim
24 Leissner: I'm sorry, the bottom two.

25 Okay. All right. This is from Low. It's to you.

Leissner - cross - Agnifilo

1714

1 It's March the 24th. And it says, "See you 6:00 p.m. at
2 L'Ermitage, Beverly Hills, Sunday. Tell Roger I leave 3:00
3 a.m. on Monday from L.A.-NYC. Can meet in NYC any time from
4 Monday to Sunday"; right?

5 A Yes, sir.

6 Q Okay. So, here, Low is talking about two different
7 locations; he's talking about meeting you or seeing you at
8 L'Ermitage, which is a hotel in Beverly Hills; correct?

9 A That's correct.

10 Q Beverly Hills, California?

11 A That's right.

12 Q He says he leave 3:00 a.m. on Monday from L.A. to New
13 York; right?

14 A Yes.

15 Q And he can meet you any time in New York City Monday to
16 Sunday?

17 A Correct.

18 Q And he tells you to tell Roger?

19 A Yes, sir.

20 MR. AGNIFIL0: Okay. And then let's go to the one
21 up above that. Okay. That's great.

22 Q You basically say, Okay, looking forward to it in L.A.
23 L.A. with like a dollar sign.

24 I arrive midday. I will be heading to NYC too. AK
25 wants to have dinner on Monday there.

Leissner - cross - Agnifilo

1715

1 That's what you say back to Low; right?

2 A That's correct.

3 MR. AGNIFILO: All right. Let's go to the two above
4 that.

5 Q Low says, "I can do dinner Monday evening if you like,
6 but leave you to strategize if appropriate."

7 You say "Okay. Perfect."

8 Strategize with Krishnan?

9 A I don't what he refers to here. I can't put that in
10 context.

11 MR. AGNIFILO: All right. Now we're going to go
12 to -- now we're going to 26 -- we're going to look at defense
13 2221 for identification.

14 Q You can see that okay?

15 A Yes.

16 Q This is a calendar entry concerning travel -- concerning
17 a meeting?

18 A Yes.

19 MR. AGNIFILO: Okay. We offer it as 2221, Your
20 Honor.

21 MR. ROLLE: No objection.

22 THE COURT: It's admitted.

23 (Defendant's Exhibit 2221 received in evidence.)

24 (Exhibit published.)

25 Q So what we have here is a calendar entry concerning a

Leissner - cross - Agnifilo

1716

1 meeting that you have with Ananda Krishnan. It says
2 L'Ermitage in Beverly Hills; right?

3 A That's what it says.

4 Q 8:00 p.m. What's PDT?

5 A I'm not sure what that stands for, sir.

6 Q Okay. Dinner with Ananda Krishnan?

7 A Right.

8 Q All right. Roger did not go with you to this trip to New
9 York; correct?

10 A That's correct.

11 Q Do you remember telling the FBI on -- in July of 2018 and
12 we're talking about TL-15-026. I'm just going to wait for a
13 second. So it's TL-15-026.

14 And you told the FBI one flight with Low that also
15 included Ng on his personal jet was from Los Angeles to New
16 York.

17 Did you tell that to the FBI?

18 A Sorry. I don't remember what I said at that time. Roger
19 was not on that jet.

20 Q Okay. So my question, though, for the time being is what
21 you told the FBI, and you said you don't remember. I'm going
22 to show you a piece of paper. I'm going to show you TL-15,
23 page 26.

24 A I see the reference, yeah.

25 Q Okay. And does that refresh your recollection that you

Leissner - cross - Agnifilo

1717

1 told the FBI that Roger went with you to New York with Low?

2 A No, sir. It does not refresh my memory.

3 Q Okay. I will take it.

4 MR. AGNIFILO: Okay. We're going to move to the
5 next defense exhibit for identification; it is DX 2222.

6 Q Can you see that. Okay?

7 A Yes, I can.

8 Q It's an e-mail between yourself and Janet Lane?

9 A Yes.

10 MR. AGNIFILO: We offer it, Your Honor.

11 THE COURT: It's admitted.

12 MR. ROLLE: No objection.

13 (Defendant's Exhibit 2222 received in evidence.)

14 (Exhibit published.)

15 Q I think you said at one point that Janet Lane was Jasmine
16 Loo?

17 A That's correct.

18 Q Now, why is she appearing as Janet Lane on your e-mail
19 here?

20 A It's a personal e-mail address. That's all I know.

21 Q For her?

22 A For her, yes.

23 Q Do you remember when you started corresponding with her
24 name being Janet Lane?

25 A No, sir, I don't remember when.

Leissner - cross - Agnifilo

1718

1 Q And this concerns Measat; correct?

2 A I would need to see a little bit more --

3 Q Sure. Sure.

4 MR. AGNIFILO: Let's go down. Let's go down.

5 That's good.

6 Q Just take a look. Tell me if that's....

7 A Yes. I believe that to be Measat, yes.

8 Q So you're communicating with Jasmine Loo under the name
9 Janet Lane in connection with this deal called Measat?

10 A Correct.

11 Q Tell us what the Measat deal was again. I know you have
12 spoken about it a few times, but we've spoken about a lot of
13 deals.

14 A We have.

15 In addition to the Tanjon assets, which 1MDB was
16 pursuing to buy, the Usaha Tegas Group also wanted to sell to
17 1MDB Measat in the belief that the satellites would be better
18 placed with a Government entity because a number of -- quite a
19 bit of the usage of those satellites was Government related,
20 in addition to being in use for broadcasting and the like. So
21 they thought somebody like 1MDB, being a Government entity,
22 would be a better owner of those assets.

23 Q Okay. And, so, it's this deal concerning satellites and
24 Government assets where you're communicating with Jasmine Lane
25 with her under the name of -- I'm sorry, Jasmine Loo under the

Leissner - cross - Agnifilo

1719

1 name of Janet Lane; right?

2 A That's right.

3 MR. AGNIFILO: All right. Let's move forward. This
4 is already in evidence Your Honor, as Government Exhibit 803.
5 It's the confidential capital committee memo that we discussed
6 for a while yesterday.

7 Q I just want you to look at the first page.

8 MR. AGNIFILO: And if we could sort highlight the
9 upper half of the first page. Perfect. That's good. All
10 right. I'm sorry, if we can make that a little bit bigger
11 too. There we are.

12 Q You said a number of times in your testimony that -- you
13 called Roger the lead banker on these deals.

14 Do you remember saying that?

15 A Yes. He was the lead coverage banker, sir.

16 Q Okay. When we look at senior management, that first
17 entry there, we only see two people there: We see you and we
18 see Andrea Vella; correct?

19 A That's correct.

20 Q Under coverage, under FICC we see Roger; correct?

21 A That's correct.

22 Q In the capacity of coverage, he's not in investment
23 banking at all; correct?

24 A He's no longer in investment banking. That's correct.

25 Q And I want to go to now Defense Exhibit 2252 for

Leissner - cross - Agnifilo

1720

1 identification.

2 Can you see that?

3 A Yes.

4 Q It's firm-wide suitability committee meeting minutes?

5 A Yes.

6 MR. AGNIFILO: I just want to make sure. It might
7 have been admitted as a Government Exhibit.

8 It might have been admitted as a Government Exhibit,
9 Your Honor, so we're trying to avoid doing it twice.

10 THE COURT: We can always cross-reference it.

11 MR. AGNIFILO: All right. I think it might be
12 admitted as 804. Okay. So it is already in evidence. It is
13 Government Exhibit 804.

14 Q So this is the firm-wide suitability committee meeting
15 minutes.

16 Do you see that?

17 A Yes, sir.

18 Q Dated April the 4, 2012; right?

19 A Yes, sir.

20 Q Okay. And just tell us very briefly, firm-wide
21 suitability committee, what does it do?

22 A It examines transactions that we're trying to do with our
23 clients as to the suitability for those particular clients and
24 suitability can come in many different forms. But, because we
25 often deal in very complex transactions from a financial

Leissner - cross - Agnifilo

1721

1 perspective, at least, we do have a committee that makes sure
2 we're not doing something that actually -- or give
3 recommendations that we would not give because they would be
4 unsuitable for a particular client. The client may want to do
5 it or have reasons to do so, but they may -- there is a hurdle
6 that we have to pass within Goldman that ensures that we, at
7 least, feel that we have done work around whether it's
8 actually suitable for them to do so, for our clients, that is.

9 Q Okay. These minutes -- these meetings, how do they take
10 place? Are you all physically together? Are you on the
11 phone? Do you remember?

12 A The suitability committee is normally done by phone or
13 videoconference, sir. It can also be combined with the
14 capital committee at times where the two committees join
15 forces, which actually I recall was the case in 1MDB at the
16 end.

17 Q Now, do you remember, off the top of your head, was this
18 a combined meeting or was this just a firm-wide suitability
19 committee meeting?

20 A On April 4th, no, I don't remember. It was just that, it
21 looks like it from the top, though.

22 MR. AGNIFILO: Okay. Let's go to the next page.
23 Okay. That's good. Let's start with that. Let's start with
24 that.

25 Q Okay. So, we have people who are in attendance for this

Leissner - cross - Agnifilo

1722

1 meeting; correct?

2 A Yes, sir.

3 Q So we have -- I'm going to go through the list very
4 quickly -- David Greenwald, who is that?

5 A Honestly, I don't remember who he was. He was a senior
6 partner. That much I remember, but I can't place him in terms
7 of his functional role.

8 Q Okay. When someone is indicated as -- it says attendance
9 but then absent, do you understand that that means they were
10 invited but they did not attend because they were absent?

11 A Correct.

12 Q And who's Eric Lane?

13 A I don't remember his functional role as well.

14 Q The next person is Dalinc Ariburnu. No?

15 A No.

16 Q Craig Broderick?

17 A I remember his name. I don't -- I can't place him
18 anymore.

19 Q Thomas Cornacchia?

20 A I don't remember.

21 Q Michael De Lathauwer?

22 A He was a capital markets person.

23 Q Eric Dobkin?

24 A He was a retired partner. We called him senior partner
25 at the time. He had run capital markets for many years.

Leissner - cross - Agnifilo

1723

1 Q Michael Koester?

2 A Michael Koester, I can't remember him.

3 Q Arthur Levitt?

4 A He, again -- he was a senior partner within Goldman

5 Sachs. I don't know his functional role.

6 Q Rob Mass?

7 A I don't know.

8 Q Marc Nachmann?

9 A Marc Nachmann was, I believe, at that time a very senior

10 investment banker. Maybe CEO of the group.

11 Q Michael Richman?

12 A I don't know.

13 Q Patrick Street?

14 A I don't know.

15 Q Megan Taylor?

16 A I don't remember.

17 Q Alejandro Vollbrechthassen (phonetic)?

18 A Vollbrechthausen.

19 Q Very good. Thank you.

20 A I don't remember.

21 Q John Tribolati?

22 A I also don't remember him.

23 Q And Darren Forsythe?

24 A No.

25 Q All right. Let's go to the bottom four people. Okay.

Leissner - cross - Agnifilo

1724

1 There's a list there for other attendees. We have
2 John McGuire. You know who that is; right?

3 A Yes.

4 Q Okay. And then the presenters. There are three
5 presenters. There's Andrea Vella, Tim Leissner and Cyrus
6 Shey; right?

7 A Yes.

8 Q And that's it? Those are the people listed on this list?

9 A Correct.

10 MR. AGNIFILO: All right. Let's go to Defense
11 Exhibit for identification 2253.

12 Q This is e-mail correspondence between yourself and Low;
13 correct?

14 A Yes, sir.

15 MR. AGNIFILO: We offer it as 2253.

16 MR. ROLLE: No objection.

17 THE COURT: It's admitted.

18 (Defendant's Exhibit 2253 received in evidence.)

19 (Exhibit published.)

20 Q Srihari Iyer, the person who's sending the bottom e-mail,
21 is from Usaha Tegas; correct?

22 A That's correct.

23 Q This person is sending you questions about Pexco, the
24 deal you told us about maybe five minutes ago; right?

25 A He's sending the responses to those questions, but, yes.

Leissner - cross - Agnifilo

1725

1 Q Yes. Okay.

2 And then you send that over to Low; correct?

3 A Correct.

4 Q And it's because you're telling us that Low is considered
5 being involved in this Pexco deal; correct?

6 A He was interested to buy those assets, correct.

7 MR. AGNIFIL0: All right. Let's go to the next,
8 Defense Exhibit for identification 2255.

9 Q This is an e-mail from your accountant Christine Chan to
10 yourself; correct?

11 A Yes.

12 MR. AGNIFIL0: We offer it as 2255.

13 MR. ROLLE: No objection.

14 THE COURT: It's admitted.

15 (Defendant's Exhibit 2255 received in evidence.)

16 (Exhibit published.)

17 Q All right. Looking at the bottom e-mail. It's from you;
18 it's to Christine Chan; correct?

19 A Yes.

20 Q April the 4th, it says; right?

21 A Yes.

22 Q Bookings to Abu Dhabi.

23 Do you see that?

24 A Yes, sir.

25 Q And then what you tell Christine Chan to do is can you

Leissner - cross - Agnifilo

1726

1 book Jasmine, 1MDB, on a same flight HK, Hong Kong, to Dubai
2 and then back Abu Dhabi to KL on the same day I am leaving for
3 now."

4 Do you see that?

5 A Yes, sir.

6 Q Okay. And then on the top e-mail, you say: Also, please
7 make sure I have the Conrad available on -- wait. Also,
8 please make sure I have the Conrad available on my arrival in
9 New York on Thursday and will only checkout at night. Thanks;
10 right?

11 A Yes, sir.

12 Q Does this refresh your recollection that on or about
13 April the 4 you were traveling back to Dubai and Abu Dhabi?

14 A Again, as I mentioned to you before, we had numerous
15 trips to Abu Dhabi, in particular, as well to Kuala Lumpur
16 around that time. So I can't tell you April 4th versus April
17 5th, for example, but yes, we took many trips to Abu Dhabi
18 during that time for the execution of project Magnolia.

19 Q And how many times -- how many times would you say that
20 you flew with Jasmine Loo?

21 A I don't know, sir. It doesn't say that. I don't know
22 how many times.

23 Q Was it more or less five times?

24 A I really wouldn't know.

25 Q You have no idea?

Leissner - cross - Agnifilo

1727

1 A No.

2 Q Can't even venture a guess?

3 A No. No.

4 MR. AGNIFIL0: Going to the next Defense Exhibit, it
5 is 2259 for identification.

6 Q And before we get to this exhibit, I have a question.

7 A Sure.

8 Q Do you remember -- and I'm not asking you specific dates,
9 traveling from -- being in Hong Kong on April 4th and then New
10 York on April 5th?

11 A No, sir.

12 Q Okay. All right. Let's look at 2259. It is an e-mail
13 correspondence between yourself and Wassim Younan?

14 A Yes, sir.

15 Q Okay. And just so we all remember, Wassim Younan is a
16 Goldman Sachs employee based in the Dubai office who covers
17 Abu Dhabi and the UAE?

18 A He was the Middle Eastern region.

19 Q Okay. Let's go to the first e-mail on the second page on
20 maybe midway down.

21 THE COURT: Admitted?

22 MR. AGNIFIL0: Yes. I'm sorry, Judge. Yes, we
23 offer it.

24 MR. ROLLE: No objection.

25 THE COURT: It's admitted.

Leissner - cross - Agnifilo

1728

1 (Defendant's Exhibit 2259 received in evidence.)

2 (Exhibit published.)

3 Q Okay. I'm looking at the bottom e-mail only because you
4 say to Wassim Younan, who is in the Dubai office, just landed
5 back in your beautiful home, don't know the schedule yet, but
6 will give you a call to update you; right?

7 A That's correct.

8 Q Does this mean to you that you're traveling to Dubai to
9 go to Abu Dhabi on or around April the 8th?

10 A Yes, sir.

11 MR. AGNIFIL0: Let's go to the very top e-mail in
12 this chain. There you go.

13 Q And, so, this is from Wassim Younan to yourself; correct?

14 A Yes, sir.

15 Q April the 9, 2012; right?

16 A Yes.

17 Q And it says, "Will call you as soon as we finish a client
18 lunch. We will be seeing Mohamed Al-Husseiny at 4:00 p.m.;
19 right?

20 A Yes, sir.

21 Q Now, do you recall if you saw Mohamed Al-Husseiny or
22 Qubaishi during this particular trip?

23 A No, sir. Not this particular date, yes. No, I don't
24 remember that.

25 MR. AGNIFIL0: All right.

Leissner - cross - Agnifilo

1729

1 Let's go to the next defense exhibit for
2 identification, 2261, for identification.

3 Q Can you see that okay?

4 A Yes, sir.

5 Q It's an e-mail between yourself and Wassim Younan; right?

6 A Yes, sir.

7 MR. AGNIFIL0: We offer it as 2261, Your Honor.

8 MR. ROLLE: No objection.

9 THE COURT: It's admitted.

10 (Defendant's Exhibit 2261 received in evidence.)

11 (Exhibit published.)

12 Q Okay. Let's go to the bottom e-mail. Okay?

13 A Yes.

14 Q Younan asks you still in Abu Dhabi; right?

15 A Yes.

16 Q Okay. And this is on April 13th. Let's go to the e-mail
17 above.

18 You respond, on April 13th: Sorry, chief, that I
19 did not swing by. We have not heard back yet on the Sheikh
20 Mansour meeting. So I'm heading back to Hong Kong for a
21 couple of days. Will let you know what the plan is as soon as
22 I get any news.

23 Do you see that?

24 A Yes.

25 Q Now, you're referring to the Sheikh Mansour meeting.

Leissner - cross - Agnifilo

1730

1 What Sheikh Mansour meeting are you referring to?

2 A In around that time, the middle of our execution project,
3 I recall that there was a meeting, a senior-level meeting that
4 involved Sheikh Mansour to approve -- like continuous approval
5 -- or continued approval to move forward with that project,
6 Project Magnolia. And I can't remember whether it's his team
7 or involved people from 1MDB, but there was supposed to be a
8 meeting where he sort of showed his continued blessing for
9 this transaction.

10 Q Okay. But what you say is, you say, We have not heard
11 back yet from the Sheikh Mansour meeting?

12 A Correct.

13 Q As though a meeting had already taken place of some sort?

14 A Yeah. It may well have, yes.

15 Q But what I'm asking is do you have any recollection of a
16 Sheikh Mansour meeting that had taken place as of April the
17 12th, 2012?

18 A What I just mentioned, sir, was that I remember that in
19 the middle of our execution project -- I can't tell you
20 whether it was April 12th or around that time, but, yes, there
21 was a meeting that I recall where Sheikh Mansour was supposed
22 to give his blessing to continue working on the project.

23 Q Just to be clear, you didn't meet Sheikh Mansour because
24 you have never met Sheikh Mansour?

25 A That's right, and this -- that's is not a reference to

Leissner - cross - Agnifilo

1731

1 that.

2 Q I'm trying to clarify.

3 A That's right.

4 MR. AGNIFILO: Let's go up to the top e-mail.

5 (Continued on next page.)

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LEISSNER. CROSS. AGNIFILO

1732

1 CONTINUED CROSS- EXAMINATION

2 BY MR. AGNIFILO:

3 Q And that's from you to Wassim Younan. And you say
4 supposedly Sheik Mansour cleared everything, but waiting for
5 next steps exactly, right?

6 A That's what he says, yes.

7 Q It's from you.

8 A Oh, sorry. Yes.

9 Q Okay.

10 And what's your basis for saying that? Why are
11 you saying to Wassim supposedly Sheik Mansour cleared
12 everything.

13 A Because that's what I was told by the 1MDB people.

14 Q Who told you?

15 A That, I can't remember. It could have been -- I mean
16 it could have come from two sources, sir; Jasmine or Jho,
17 but I don't remember who would have told me.

18 MR. AGNIFILO: Let's go to next defense exhibit,
19 which is 2262 for identification.

20 Q Do you recognize this as a correspondence between
21 Andrea Vella and yourself?

22 A Yes.

23 MR. AGNIFILO: We offer it as 2262, Judge.

24 MR. ROLLE: No objection.

25 THE COURT: It's admitted.

LEISSNER, CROSS, AGNIFILO

1733

1 (Defendant's Exhibit 2262 in evidence.)

2 Q Okay. So this is dated April 16, 2012. It's from
3 Andrea Vella, right?

4 | A Yes.

5 Q What's that number there? Where the two is indicated?

6 A That was my Singapore mobile.

7 Q So this is a Blackberry message from Vella to you,
8 right?

9 A Yes. It's a text message, correct.

10 Q Okay, text message.

11 And it says, good morning, Tim. We're in AB, Abu
12 Dhabi, waiting for a signal from you. Salam alaikum, right?

13 A That's right.

14 Q A signal to do what?

15 A To have a meeting. To meet.

16 Q Who are you meeting with?

17 A With Andrea and the rest would be speculation, sir.

18 | But certainly with him.

19 | Q Okay.

20 And so fair to say you don't have a clear
21 recollection, as you sit here today, of who else, other than
22 Andrea Vella, was at the meeting on or about April the 16th,
23 right?

24 A I -- it might be helpful to give you some background
25 because I don't remember exactly who was there. However, as

LEISSNER. CROSS. AGNIFIL0

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1 the deal progressed and we had to be in Abu Dhabi many
2 times. Numerous times we came in, we stayed for a few days,
3 had meetings, left, and came back. It was a continuous
4 going and -- coming and going. And the deal team that would
5 regularly be there included myself, Andrea, Roger, and some
6 of the capital markets team like Cyrus was there, and other
7 people who helped on the execution side. There was a -- our
8 lawyers, there was really, in an execution like this, you
9 actually have to be more or less all hands on deck, if you
10 were.

11 Q I appreciate that. I'm not asking you though in
12 general. I'm just asking you specifically for this
13 particular meeting on or about April the 16th, other than
14 Andrea Vella being there, you have -- you don't have a
15 recollection of who else was there; yes or no?

16 A That's correct. I don't know who exactly else was
17 there.

18 Q That's fair enough.

19 MR. AGNIFIL0: We're going to go to the next
20 exhibit, which is already in evidence as a defense exhibit.
21 We called it AT23. It's already in evidence. We're going
22 to pull that up for everybody.

23 Q So we're going to look at the bottom e-mail for
24 starters.

25 This is from Andy Tai, right, to yourself? Do you

LEISSNER. CROSS. AGNIFILO

1735

1 see that? Take your time.

2 A Yes.

3 Q And Andy Tai writes to you and he copies Roger,
4 correct?

5 A Yes.

6 Q Monday, April 16, 2012, right?

7 A Yes.

8 Q Subject Abu Dhabi?

9 A Yes.

10 Q He says Tim, just got wind that Andrea, John, Cyrus,
11 and Sherry are on the way to Abu Dhabi tonight.

12 Do you see that?

13 A Yes.

14 Q He then goes on to say, they're concerned that the
15 Dubai guys are not running things the right way.

16 Do you see that?

17 A Yes.

18 Q And then he says do you want Roger and I to be there as
19 well, right?

20 A Yes.

21 Q Let's go to your e-mail on top.

22 You say no need, chief. I hope John is not going.
23 Didn't need many people here and I told them no need for
24 John. He and Cyrus can tag team, right?

25 A Yes.

LEISSNER. CROSS. AGNIFIL0

1736

1 Q Now, does this refresh your recollection that, at least
2 as of April the 16th, Roger and Andy Tai were not in Abu
3 Dhabi?

4 A Sir, no. It doesn't help me with my recollection. I
5 just see what is on the page here.

6 Q Okay.

7 And fair to say what's on the page is that Andy
8 Tai is asking you if you want Roger and Andy Tai to go to
9 Abu Dhabi and you say no need.

10 A That's correct.

11 THE COURT: Counsel, what was that exhibit number?

12 MR. AGNIFIL0: It's AT24. We're going to move on
13 to AT24, which is already in evidence and I want to start on
14 the second page.

15 Q Can you see that okay? It's an e-mail from Andy Tai to
16 you and to Roger and to Adrian Seow and Huanwu Li?

17 A Yes.

18 Q Andy Tai writes; Tim, Roger. Please find attached a
19 draft for the IPIC board deck, right?

20 A Yes.

21 Q We don't need to go into it in detail, but what is a
22 board deck?

23 A A board deck is a presentation to the board of the
24 company. In this case, IPIC, that provides information to
25 the board to make a decision normally.

LEISSNER. CROSS. AGNIFILO

1737

1 Q All right.

2 Now we're going to go to the first page to the top
3 two e-mails. We're going to start with the bottom of those
4 two.

5 So you say on April 18th, this is two days after
6 you told Andy Tai no need chief.

7 A Yes.

8 Q And you say also I forgot, somewhere I saw a
9 contribution or guarantee payment to IPIC that is no longer
10 contemplated, so please delete. Right?

11 A Yes.

12 Q All right.

13 And the top e-mail is from Adrian Seow to yourself
14 and Andy Tai and Roger, with a copy to Jan Hoo Lee. And
15 Adrian Seow says yes, have already removed them for next
16 turn of draft, right?

17 A Yes.

18 Q And then he goes on to say; Tim, just to point out for
19 that the warrant intrinsic value, we will update the number?
20 NO is number there?

21 A Yes.

22 Q The number based on the fact that the settlement of
23 Aabar call options will not be on a net basis, correct?

24 A Yes.

25 Q All right.

LEISSNER. CROSS. AGNIFIL0

1738

1 MR. AGNIFIL0: Going to the next defense exhibit,
2 it's 2264. For identification.

3 Q Do you see that okay?

4 A Nothing yet.

5 Q Not yet, okay. You see it now?

6 A Yes.

7 Q Okay.

8 Correspondence between yourself and Andrea
9 Vella?

10 A Yes.

11 MR. AGNIFIL0: We offer it as 2264, Judge.

12 MR. ROLLE: No objection.

13 THE COURT: It's admitted.

14 (Defendant's Exhibit 2264 in evidence.)

15 Q We're going to look at the bottom e-mail there. This
16 is April the 18th.

17 A Yes.

18 Q All right. Can we just capture that top line?

19 And what Vella writes to you is wondering
20 whether we should start preparing 1MDB for a bigger M&A and
21 financing fee to manage the spread discussion more
22 constructively. Just a late night thought, right?

23 A Yes.

24 Q What is Andrea asking you there? He's talking about a
25 bigger M&A and financing fee. What is that?

LEISSNER. CROSS. AGNIFIL0

1739

1 A As part of Project Turin, we were getting an M&A fee;
2 mergers and acquisitions fee, for the advice we were giving
3 to 1MDB on the acquisition itself. And then separately, we
4 were getting a fee for raising the funding. Now, the fact
5 that we were actually buying these bonding ourselves on our
6 balance sheet, which I described last week, he refers to a
7 spread discussion. And spread is not a fee per se, it
8 basically means we, as Goldman Sachs, were buying the bonds
9 and where we were selling them onto investors. That's the
10 spread. Again, it translates at the end of the day to our
11 revenues, to Goldman Sachs revenues. But sometimes people
12 put that together with the fee. It's actually a buying and
13 selling spread.

14 Q So what Andrea Vella is saying to you is that 1MDB
15 might have to pay for to Goldman Sachs to get this deal
16 done?

17 A Yes.

18 Q And you respond in the e-mail above that. Don't need
19 much time on that. Will be okay if that's is what we need,
20 right?

21 A That's correct.

22 Q You convey to Andrea Vella that you have this situation
23 covered, and that you don't need much time to explain to
24 1MDB that they're going to have to spend more than they
25 thought?

LEISSNER. CROSS. AGNIFILO

1740

1 A I think the first part is a little bit of a
2 mischaracterization. It's not that I have this covered, but
3 I was confident that we could have this discussion and
4 wouldn't have to spend much time on it. That's what I was
5 confident about.

6 Q Fair to say there are a number of things that gave you
7 this confidence, including your relationship with Jasmine
8 Loo, right?

9 A Well, no sir. It wasn't that. It was the fact that,
10 as part of our discussion around the scheme, we knew that
11 this is going to work. Roger and I, we had already -- you
12 know. It wasn't a matter of how much money Goldman Sachs
13 was going to make. Whether the deal was going through or
14 not.

15 Q You mention Roger and I.

16 A Yeah.

17 Q Roger is not on this e-mail, right?

18 A No. I meant that we had confidence that we would be
19 able to complete this transaction from 1MDB, which is where
20 my confidence stems from here.

21 MR. AGNIFILO: We're going to go to the next
22 defense exhibit, it's 2268 for identification. We're only
23 going to look at the bottom exhibit the bottom e-mail,
24 sorry.

25 Q If you look at the bottom there of 2268, that's the

LEISSNER. CROSS. AGNIFIL0

1741

1 e-mail from yourself to others at Goldman Sachs?

2 A Yes, sir.

3 MR. AGNIFIL0: All right. Your Honor, we offer as
4 2268.

5 THE COURT: It's admitted.

6 (Defendant's Exhibit 2268 in evidence.)

7 Q So this is April the 21st, correct?

8 A Yes.

9 Q And you are sending an e-mail to a number of people.
10 You have Toby Watson, right?

11 A Yes.

12 Q Jonathan Dunn, correct?

13 A Yes.

14 Q Roger Ng, correct?

15 A (No verbal response given.)

16 Q Andy Tai?

17 A Yes.

18 Q Cyrus Shey?

19 A Yes.

20 Q Andrea Vella?

21 A Yes.

22 Q Wassim Younan?

23 A Yes.

24 Q And Ali Al Ali?

25 A Correct.

LEISSNER. CROSS. AGNIFILO

1742

1 Q And what you say is; quick update. Don't think there
2 is a board meeting of IPIC tomorrow, right?

3 A Yes.

4 Q How do you know that?

5 A I was informed, I believe, by the 1MDB team.

6 Q They still need to socialize the transaction more.
7 What does that mean to socialize the transaction?

8 A That they internally need to discuss it.

9 Q You then say Mohammed is only back tomorrow to do more
10 ground work, right?

11 A Correct.

12 Q How do you know where Mohammed is and when he's going
13 to be back?

14 A Again, I believe 1MDB told me that at the time.

15 Q Then you say Sheik Mansour has written to the Prime
16 Minister of Malaysia and the crown prince has also lent his
17 support, correct?

18 A Yes.

19 Q How do you know that?

20 A I don't remember the exact specifics, but I believe Jho
21 told me that.

22 Q The crown prince is who?

23 A He's the older brother of Sheik Mansour, the son of the
24 King of Abu Dhabi.

25 Q What's his name?

LEISSNER. CROSS. AGNIFILO

1743

1 A Mohammed bin Zayed.

2 Q Say it again?

3 A Mohammed bin Zayed.

4 Q Was there any contact, to your knowledge, between
5 anyone and the crown prince?

6 A Yes, sir.

7 Q And who had that contact?

8 A Jho expressed to me that he was in touch with the crown
9 prince through two people. One was Ambassador Yousef
10 Al-Otaiba and the other person that he told me he was in
11 touch with the crown prince directly on was Handoun, who we
12 talked about before.

13 Q All right. We're going to go to the next defense
14 exhibit for identification, which is 2269.

15 This is e-mail traffic between yourself and others
16 at Goldman Sachs, correct?

17 A Yes, sir.

18 MR. AGNIFILO: We offer it, Judge, as 2269.

19 MR. ROLLE: No objection.

20 THE COURT: It's admitted.

21 (Defendant's Exhibit 2269 in evidence.)

22 Q All right. And this is this top e-mail is from Wassim
23 Younan and it's from a number of people, including Stephen
24 Scherr, copying yourself, correct?

25 A That's right. Correct.

LEISSNER. CROSS. AGNIFILO

1744

1 Q It's also sent to Andrea Vella, Hazem Shawki, and Ali
2 Al Ali, right?

3 A Yes, sir.

4 Q And it says hi Stephen. Both Tim and I connected
5 earlier in the day, both of us are getting identical
6 feedback from Abu Dhabi. Mohammed, the CEO of Aabar, and
7 Hamid, the CEO of IPIC, are individually in the process of
8 posting IPIC's board members on the transaction.

9 Do you see that?

10 A Yes, sir.

11 Q Okay.

12 Was there an issue around this time over the fact
13 that the IPIC board was not voting or approving of the
14 guarantee?

15 A Yes, sir. The fact that Goldman Sachs wanted the IPIC
16 board to approve the guarantee. The IPIC board didn't want
17 to do so. It didn't feel that it had the authority nor
18 desire to approve the guarantee.

19 Q Let's go a little further on. It says -- well, we'll
20 continue. It says we do not expect IPIC's board to approve
21 the transaction before next week at the earliest. Right, it
22 says that?

23 A Yes.

24 Q In the meantime, Tim has learned that HH Sheik Mansour
25 has sent a letter to the Malaysian PM, right?

LEISSNER. CROSS. AGNIFIL0

1745

1 A That's right.

2 Q We anticipate that the letter carries constructive
3 language, as it relates to Project Magnolia, correct?

4 A That's right.

5 MR. AGNIFIL0: Let's go to the next defense
6 exhibit, which is 2152.

7 Q Do you see that okay?

8 A Yes.

9 Q This is from you to Wassim Younan, Andrea Vella, and
10 Eugene Leozon, correct?

11 A That's correct.

12 MR. AGNIFIL0: We offer it as 2152.

13 MR. ROLLE: No objection.

14 THE COURT: It's admitted.

15 (Defendant's Exhibit 2152 in evidence.)

16 Q Now this e-mail starts with a scan from someone named
17 Celia Yip?

18 A Yes.

19 Q All right.

20 And this was the two letters. These were the
21 letters from Najib Razak and from Sheik Mansour, correct?

22 A Yes. That's what I believe from this e-mail, yes.

23 MR. ROLLE: We just ask if there's an attachment,
24 that the witness can see it.

25 THE COURT: Is there an attachment?

LEISSNER. CROSS. AGNIFIL0

1746

1 MR. AGNIFIL0: There is. It's part of the 2152.
2 Your Honor, what I would like to do is to -- I have actual
3 hard copies of the two letters which I'd like to give to the
4 witness, to your Honor, and then each one to the jurors; if
5 that's possible?

6 THE COURT: Why don't you use the Elmo?

7 MR. AGNIFIL0: I'm going to give this to the
8 witness.

9 Q So just to be clear -- I'm going to give you a chance
10 to read those over. Take your time.

11 MR. AGNIFIL0: Your Honor, we ask this be shown to
12 the jury. Have we offered it, Judge? I apologize.

13 THE COURT: You did. 2152.

14 MR. AGNIFIL0: Yes.

15 Q Just look up when you're done reading.

16 A Yes, sir.

17 Q So you had possession of these two letters, correct?

18 A That's right.

19 Q And these were scanned and then and this Celia Yip
20 e-mail is sending the scanned letters to yourself, right?

21 A Yes. Yes, sir.

22 Q Then you send it on to Wassim Younan, Andrea Vella, and
23 Eugene Leozon, correct?

24 A That's right.

25 Q And these two letters; one is written by Sheik Mansour

LEISSNER. CROSS. AGNIFILO

1747

1 of Abu Dhabi, right?

2 A Yes.

3 Q And the other is written by Najib Razak, the Prime
4 Minister of Malaysia?

5 A Correct.

6 Q I understand you're not an expert, but do these seem to
7 be written in the same font?

8 MR. ROLLE: Objection.

9 THE COURT: Overruled.

10 MR. ROLLE: Calls for opinion, Judge.

11 Q Just take a look --

12 THE COURT: The witness can answer.

13 A I wouldn't know, sir.

14 MR. AGNIFILO: Can we move the letter from the
15 Prime Minister up a little bit?

16 Q So the letter on the right as we're looking at the
17 screen is from Dato Mohammed Najib. That's the Prime
18 Minister at the time of Malaysia, correct?

19 A That's correct.

20 Q You agree with me that that letter doesn't have a date.
21 Other than March 2012. There's no day of the month. It's
22 not March 12th, March 8th, March 9th. It's no date at all?

23 A It's March 2012.

24 Q March 2012.

25 And both of these letters refer to something

LEISSNER. CROSS. AGNIFIL0

1748

1 called the Khalifa bin Zayed charity, right? Do you see
2 that?

3 A Yes, sir.

4 Q Both of the letters refer to it, right?

5 A Yes.

6 Q And you had both of these letters in your possession,
7 right?

8 A Yes.

9 Q Did you ever check if there's such a thing as the
10 Khalifa bin Zayed charity?

11 A No, sir.

12 Q How long did you possess these two letters in your
13 physical possession?

14 A For a very long time, sir.

15 Q And so -- and remind us again when you got each of
16 them. Let's talk about the letter on the left. That's --
17 let's talk about the letter on the right.

18 So that's the letter from the Prime Minister of
19 Malaysia, Najib Razak.

20 A Yes.

21 Q When did you get that into your physical possession?

22 A I don't know the exact timing on both of those, sir. I
23 do know that they were handed to me by Jasmine and maybe one
24 was given to me by Jho. I don't know if one of given to me
25 by Jho, but it was either Jasmine or Jho given to me.

LEISSNER. CROSS. AGNIFIL0

1749

1 Q Fair to say these are very significant letters.
2 They're letters, one is from the Prime Minister of Malaysia
3 and the other is from a very powerful Sheik from the United
4 Arab Emirates, correct?

5 A Yes, correct.

6 Q And you can't tell us anything about a date as to when
7 you got either of them?

8 A No, sir. I remember that -- I don't know the date,
9 yes. I don't know the date. I do know that they were given
10 to me; one for sure by Jasmine. I don't know if the other
11 one was given to me by Jho or Jasmine. Jasmine gave me the
12 Sheik Mansour letter and I'm not sure which one of the two
13 gave me the Prime Minister of Malaysia letter.

14 Q Let's talk about the Prime Minister of Malaysia.

15 That's the first one you got, right? Am I right?

16 A I don't know which one. I don't remember in which
17 sequence I got them. I know I got them both in the middle
18 of the execution project of Project Magnolia.

19 Q So you don't know which one you got first?

20 A That's right.

21 Q It's possible that you got the letter from Sheik
22 Mansour first?

23 A It's entirely possible. I don't remember the sequence.

24 Q And where were you exactly when you got the Sheik
25 Mansour letter?

LEISSNER. CROSS. AGNIFILO

1750

1 A In Abu Dhabi.

2 Q Where in Abu Dhabi were you?

3 A The Emirates Palace.

4 Q Who were you with?

5 A Jasmine.

6 Q Where in the Emirates Palace with Jasmine were you when
7 you were given the Sheik Mansour letter?

8 A It was on the level, third level, where the business
9 center and the conference rooms are.

10 Q And tell me how it happened. She gave you a letter,
11 was it in an envelope? Tell me everything you remember
12 about Jasmine Loo giving you the Sheik Mansour letter?

13 A Yes. It was in an envelope, a brown envelope. She
14 handed to me and that's -- you know. It was a big area
15 between -- in the far side of the business center and
16 conference room on the right, and I think maybe a restaurant
17 or something. It was a wide open area.

18 Q Why did she give you the letter? What were you
19 supposed to do with it?

20 A It was intended for me at Goldman Sachs that she
21 thought it was important for us to have this letter.

22 Q And when you got the letter from Jasmine in the brown
23 envelope --

24 A Yes.

25 Q -- what did you do with it?

LEISSNER. CROSS. AGNIFIL0

1751

1 A I took it from her and I told people I had this letter.
2 I guess sent it on at some point. But I don't remember the
3 actual steps. I took it in my possession first.

4 Q Let's talk about the Najib letter, the other letter,
5 the one from the Prime Minister of Malaysia. Where were you
6 when you got that letter?

7 A That, I don't remember sir.

8 Q You don't remember where you were when you got the
9 letter?

10 A That's right. Which is why I'm not sure if it was Jho
11 who gave it to me or Jasmine. I can't be certain anymore.

12 Q And this is the letter you talked about yesterday that
13 you went to Qubaisi's house?

14 A I can only speculate about that because he didn't open
15 the letter in front of me. So I don't know if it's the same
16 letter.

17 Q But didn't you tell us that Jasmine said it was the
18 same letter?

19 A She may have said that, but I have never seen Khadem
20 open the letter in front of me.

21 Q But you're clear that the letter, even though you
22 didn't look in the envelope, that you gave it to Qubaisi?

23 A Yes.

24 Q Not Husseiny?

25 A No. Khadem.

LEISSNER. CROSS. AGNIFIL0

1752

1 Q Khadem Al-Qubaisi?

2 A Yes. Mohammed was there with us, but it was given to
3 Khadem.

4 Q Do you remember telling the FBI in June of 2018, TL12
5 page 13, that you gave the letter to Husseiny?

6 A No, sir. I gave it to had Khadem.

7 Q I understand. I'm going to show you TL12, page 13.

8 A Yes, sir.

9 Q Does that refresh your recollection that you told the
10 FBI that had you gave it to Husseiny?

11 A No, sir.

12 Q All right. Thank you, sir.

13 Now, for a period of time you had both letters
14 in your possession, correct?

15 A Yes.

16 Q For how long a period of time did you have two letters;
17 each of them from a world leader to another world leader, in
18 your possession?

19 A For years, sir.

20 Q For years?

21 A Yes.

22 Q Okay. Let me ask the question differently.

23 How long was it in your --

24 MR. AGNIFIL0: Well, I'll get to that one.

25 Q But how long was it were they in your possession before

LEISSNER. CROSS. AGNIFIL0

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1 you had them scanned into the Goldman Sachs system and then
2 sent to Eugene Leozon and the others that you indicated?

3 A Sir, I don't remember how long it had those in my
4 possession.

5 Q Could it have been more than a week?

6 A I don't remember.

7 Q And who is the first person you told that you had in
8 your physical possession, two letters? One from the Prime
9 Minister of Malaysia and the other from Sheik Mansour?

10 A Roger was the first person at Goldman Sachs. I believe
11 that I informed Jho after Jasmine gave me the letter that
12 Jasmine had, in fact, given me the letter. But at Goldman
13 Sachs it was Roger and then after that, Andrea Vella.

14 Q And those are the only two people that you told?

15 A Maybe I told more. Those are the two ones that I
16 remember. Sorry, right after I received them. I, of
17 course, scanned it and sent it to other people. But after I
18 received them, those are the two people that I told in short
19 order.

20 Q And you, yourself, indicated yesterday you didn't have
21 any role in helping draft either or both of these letters,
22 right?

23 A No, I didn't have a role in drafting them. I may have
24 given Jasmine and Jho input into what was needed from Sheik
25 Mansour at some point. But that -- I wasn't drafting a

LEISSNER. CROSS. AGNIFIL0

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1 letter, no. I was not drafting a letter.

2 Q And what -- so you said you may have given input on the
3 Sheik Mansour letter. What input do you think you may have
4 given?

5 A Sir, it's a long time ago. But what I do remember is
6 that as we were executing the transaction, we were in the
7 midst of so many different work streams that we had --
8 Jasmine and I, and also with Jho, we had continuous
9 dialogues what was required, what we need at Goldman Sachs.
10 So in the context of the board meeting of IPIC, and that not
11 forthcoming, I told them we need at least some kind of
12 support from Sheik Mansour that indicates he's behind this
13 transaction.

14 Q You told that to who exactly?

15 A Jasmine and Jho.

16 Q And where were you and Jasmine and Jho when you told
17 them that?

18 A Jho was on the phone, and with Jasmine we were in Abu
19 Dhabi, is my recollection.

20 Q So you and Jasmine were together in Abu Dhabi, right?

21 A Yes. We were working intently on the project. It was
22 towards the end of the project and Jho was not in Abu Dhabi
23 at the time, as far as I know. We telephoned him.

24 Q And then the three of you had a conversation?

25 A Yes.

LEISSNER. CROSS. AGNIFILO

1755

1 Q Towards the end of the project?

2 A Yes.

3 Q And the project ended on May 21st or so?

4 A That's correct.

5 Q If we look at the letter from Sheik Mansour, it's dated
6 April 17th, correct?

7 A Right.

8 Q Now, what exactly do you remember saying? While you're
9 with Jasmine with Jho on the phone about what Sheik Mansour
10 is going to put in his letter, what did you say
11 specifically?

12 A I don't know what I said specifically. What I do
13 remember is I highlighted to them the fact that we needed
14 support from him if there is no board approval forthcoming.

15 Q When you had physical possession of the letter, did the
16 letter contain your recommendations of what Sheik Mansour
17 should say in his letter?

18 A I don't know, sir. It was -- it wasn't like a wording
19 suggestion, so I can't tell you whether or not it contained
20 it. What I do know is that it was sufficient for Goldman
21 Sachs to get comfortable. But I can't say that I actually
22 told him what it should say.

23 Q And your goal in these letters is you wanted to make
24 sure that the deal got done?

25 A Sir, it wasn't my goal in these letters, that's their

LEISSNER. CROSS. AGNIFILO

1756

1 business. What I gave Jasmine and Jho was my recommendation
2 that what we're presenting is what Goldman Sachs would need.

3 Q So you had input into the letters as that what Goldman
4 Sachs would need to get the deal done?

5 A Again, that's an overstatement of how far I could reach
6 at this --

7 Q So you tell me, tell us?

8 A Which is what I did, I believe.

9 Q I'm sorry, do it again.

10 MR. ROLLE: Objection.

11 THE COURT: Overruled. You can answer.

12 A In my conversation, I told him that if a board approval
13 was not forthcoming, at a minimum we need some kind of
14 support from Sheik Mansour. That's what I recall.

15 Q And you said --

16 A It was broad. It was a very broad request to both of
17 them.

18 Q Have you ever given advice to Sheik Mansour about any
19 of his other letters he's ever written; as far as you know?

20 MR. ROLLE: Objection. Mischaracterizes the
21 testimony.

22 MR. AGNIFILO: I'll ask a different question,
23 Judge.

24 Q Have you given -- have you made statements or
25 recommendations or whatever work you want to use about any

LEISSNER. CROSS. AGNIFIL0

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1 other letter that Sheik Mansour ever wrote?

2 A It's -- no, sir. Not specifically. But you have to
3 understand as we're going to the execution of this Project
4 Magnolia, I was in constant contact, as was Roger, as was
5 Andrea, with the working team. That included Jasmine for me
6 and Roger, that included Jho. We were constantly telling
7 them what Goldman Sachs required. In this case, for example
8 the first thing that we said was we needed board approval.

9 Okay, that wasn't forthcoming. What's the next thing?

10 Maybe we can do with an -- information that he was behind
11 this. So this is an ongoing dialogue, you have to
12 understand, sir, where we have going back and forth of
13 brainstorming. Of what might work for Goldman Sachs to get
14 us to do this bond transaction.

15 Q So your specific concern with these letters is that
16 they be acceptable to Goldman Sachs?

17 A It wasn't in the letters, sir. What we needed is an
18 indication of support that -- that was my view, certainly,
19 at the time. We need indication of support that he was, in
20 fact, behind us. A letter was the result was this. It
21 wasn't my specific recommendation that letter, but I was
22 expressing to them. And again, it's a brainstorming
23 exercise, what we need. Which was an indication of support.

24 Q These are conversations that you're having only with
25 Jho Low and Jasmine Loo?

LEISSNER. CROSS. AGNIFILO

1758

1 A As far as I remember, yes. Roger and I discussed these
2 things too because we were talking all of the time. Our
3 concern was yes, you know. We were hitting a little
4 roadblock here at Goldman Sachs so we did discuss that, too.

5 MR. AGNIFILO: We're going to move onto defense
6 Exhibit 2302 for identification.

7 Q This is -- I'll wait so you can see it.

8 THE COURT: Are we using the regular computer
9 system?

10 MR. AGNIFILO: I think we're going to use the
11 regular computer, Judge.

12 Q Can you see that Mr. Leissner?

13 THE COURT: Now we can, yes.

14 Q This is one of these. We've been discussing these
15 Goldman calendar entries?

16 A Yes, sir.

17 MR. AGNIFILO: All right. We offer it as 2302,
18 Judge.

19 MR. ROLLE: No objection.

20 THE COURT: It's admitted.

21 (Defendant's Exhibit 2302 received in evidence.)

22 Q All right.

23 So here what we see is the subject is -- I might
24 say it wrong. Jumeirah Al Etihad --

25 A Towers.

LEISSNER. CROSS. AGNIFIL0

1759

1 Q Say again?

2 A Jumeirah Al Etihad Towers.

3 Q And this a hotel in Abu Dhabi?

4 A That's right.

5 Q And there's a date range there. It's Monday, May the
6 7th, 2012 to Wednesday, May the 9th, 2012?

7 A Yes.

8 Q And you booked the trip with Expedia; is that what it
9 says?

10 A I can see what it says here, so.

11 Q Do you remember booking the trip with Expedia?

12 A No, sir.

13 Q It says the hotel Jumeirah Al Etihad Towers. Room
14 reservations ai, Swan Loo, and then room reservation ai,
15 Swan Loo. That's Jasmine Loo, right?

16 A That's right.

17 Q And you reserved two rooms for her?

18 A I only see what I see here, sir. So I don't remember
19 this.

20 Q Do you remember going to Abu Dhabi with Jasmine Loo on
21 or around May the 7th, 2012?

22 A No. As I described to you before, we were having
23 continuous meetings leading up to the conclusion of Project
24 Magnolia in Abu Dhabi. So, no. I don't remember this
25 specific trip.

LEISSNER. CROSS. AGNIFILO

1760

1 Q Very good.

2 We're going to go to the next defense exhibit,
3 which is 2303 for identification and we're going to look
4 actually at -- do you see e-mail traffic between yourself
5 and Wassim Younan?

6 A Yes. I don't see the bottom, per se.

7 Q We can show you the bottom. Let's go to the bottom.

8 A Yes.

9 Q Between you and Wassim Younan?

10 A Yes.

11 MR. AGNIFILO: We offer it as 2303.

12 MR. ROLLE: No objection.

13 THE COURT: It's admitted.

14 (Defendant's Exhibit 2303 received in evidence.)

15 Q Let's go to the second page of 2303. This is from
16 Jasmine Loo to yourself on Tuesday, May 8th, correct?

17 A Yes, sir.

18 Q And she writes Tim, I'm meeting the EY partner in
19 charge of IPIC, Mr. Bassam Hage, tonight at 8:15.
20 Tentatively at Hakkasan. Appreciate if you can join me,
21 right?

22 A Yes.

23 Q Let's go through that for a second. EY. What's EY?

24 A That's Ernst & Young.

25 Q That's an accounting firm?

LEISSNER. CROSS. AGNIFIL0

1761

1 A That's an accounting firm.

2 Q What, if any, role does Ernst & Young have in these
3 affairs?

4 A That Ernst & Young was the auditors of IPIC, sir.
5 Similar to what KPMG was for 1MDB, what we had seen earlier.

6 Q All right.

7 And what she says here is that the Ernst & Young
8 partner in charge of IPIC, she indicates is Mr. Bassam Hage,
9 correct?

10 A That's right.

11 (Continued on next page.)

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T. Leissner - Cross/Mr. Agnifilo

1762

1 EXAMINATION BY

2 MR. AGNIFILO:

3 (Continuing.)

4 Q And she is meeting this Ernst & Young partner in charge
5 of IPIC at 8:15 at a place called Hakkasan.

6 And are you familiar with that place?

7 A Yes, sir.

8 Q And what is it?

9 A It's a restaurant in the Emirates Palace, I believe.

10 Q You've been there before?

11 A Yes, I have.

12 Q All right. Let's go to the next e-mail which is on the
13 bottom of the first page and that's from you -- it's to
14 Wassim Younan and Ali al-Ali, correct?

15 A Yes, correct.

16 Q And you write: FYI, sorry to cause inconvenience but
17 could one of you join me? You can also meet Jasmine who is
18 the ED in charge of the CEO's office at 1MDB (in plain
19 language she runs the show there). Many thanks.

20 Right?

21 A That's right.

22 Q So you invite them to come to might you at Hakkasan,
23 right?

24 A Correct.

25 Q Who owns Hakkasan, to your knowledge?

T. Leissner - Cross/Mr. Agnifilo

1763

1 A I don't know, sir.

2 Q Do you know if Khadem Al-Qubaisi?

3 A I don't know, sir.

4 Q You don't know.

5 A No.

6 Q Okay. And so, does this -- let me ask you: Does this
7 cause you to recall that you and Jasmine Loo were together in
8 Abu Dhabi on or around May the 8th, 2012?

9 A Yeah, only from what you're showing me here. But the
10 actual event, no.

11 Q Okay. We're going to go to the next defense exhibit,
12 2304 for identification.

13 MR. AGNIFILO: We have an exhibit numbering thing.
14 If your Honor is inclined to be in the area of a break, this
15 would be a good time to do it, or I can just go to the next
16 exhibit. I leave it to your Honor.

17 THE COURT: Why don't we go to the next exhibit.

18 MR. AGNIFILO: That's fine, Judge.

19 THE COURT: What number is this one.

20 MR. AGNIFILO: This was defense Exhibit 2304.
21 We're going to come back to it.

22 THE COURT: Okay.

23 Q We're going to go to 2305 for identification.

24 Okay again this is one of those Goldman Sachs
25 calendar entries we've been talking about?

T. Leissner - Cross/Mr. Agnifilo

1764

1 A Yes, sir.

2 MR. AGNIFIL0: We offer it as 2305.

3 MS. SMITH: No objection.

4 THE COURT: It's admitted.

5 (Defendant's Exhibit 2305 was marked in evidence as
6 of this date.)

7 Q This is from you to indicates that you're -- the subject
8 is that same hotel Jumeirah Al Etihad Towers but date range
9 this time is from Friday, May 11, 2012, to Monday, May 14,
10 2012, correct?

11 A That's correct.

12 Q It says thank you for booking your trip with Expedia.
13 Do you see that?

14 A Yes, sir.

15 Q And then room reservations, there are two rooms.

16 Ms. Loo A. Swan, that's Jasmine Loo, correct?

17 A Correct.

18 Q One you for, Mr. Tim Leissner; correct?

19 A Correct.

20 Q So this is you and Jasmine going to Abu Dhabi twice
21 within a number of days of even other, right?

22 A That's correct.

23 Q The first one was between May 7th and May 9th, if you
24 remember?

25 A Again, you know, what you're showing to me, but yes.

T. Leissner - Cross/Mr. Agnifilo

1765

1 Q Again this time it's May 11th to May 14th, correct?

2 A Yes.

3 Q All right. Let's go to Defense Exhibit 2306 for
4 identification. We're going to make it a little bit bigger
5 on top.

6 I think this might have been admitted as a
7 Government Exhibit but we'll put it in.

8 You see the top there?

9 A Yes, sir.

10 Q Okay. It's from Roger -- I'm sorry, it's from yourself
11 to Roger, correct?

12 A That's correct.

13 MR. AGNIFILO: We offer it as 2306.

14 MR. ROLLE: This is in evidence. We can cross
15 reference but no objection.

16 THE COURT: We'll admit it and then cross reference
17 it.

18 What's the Government Exhibit entry, do you know?

19 MR. ROLLE: We'll confirm, Judge, we're looking
20 now.

21 THE COURT: Okay. Thank you.

22 (Defendant's Exhibit 2306 was marked in evidence as
23 of this date.)

24 Q Okay. So this is -- this is e-mails -- this is from you
25 is to Roger; correct?

T. Leissner - Cross/Mr. Agnifilo

1766

1 A Yes, sir.

2 Q And what you say is, FYI, that's why I don't think
3 Turkey will work La?

4 A Yes, sir.

5 Q And we talked about this on direct examination, I
6 believe, and you said there was some sort of trip that was
7 tentatively scheduled for you to go to Turkey; correct?

8 A That's the vague memory but, yes, possibly.

9 Q I'm going to show you --

10 THE COURT: Counsel, you can use the Elmo if you
11 want to show it to this witness.

12 MR. AGNIFIL0: This is for identification:

13 Q Can you see that okay, Mr. Leissner?

14 A Yes, sir.

15 Q All right. And it's Defense Exhibit 36. And just
16 without getting too much into it, this is a letter to you,
17 correct, from Bank Negara?

18 A Yes.

19 MR. AGNIFIL0: We offer it as Defense Exhibit 36.

20 MR. ROLLE: No objection, your Honor.

21 THE COURT: DX-36?

22 MR. AGNIFIL0: 36, judge, yes.

23 THE COURT: It's admitted.

24 (Defendant's Exhibit 36 was marked in evidence as
25 of this date.)

T. Leissner - Cross/Mr. Agnifilo

1767

1 Q And does this relate to what you were talking about
2 Turkey, that something was going to go on in Turkey in
3 Istanbul. Some sort of -- you were going to be a panelist of
4 some sort?

5 A It does look like it, sir, yes.

6 Q Okay. And this is from Bank Negara Malaysia which is
7 the Central Bank of Malaysia; correct?

8 A That's correct.

9 Q And it's to you, Mr. Leissner, right?

10 A Yes.

11 Q All right. And you understand was Roger coming with you
12 on this trip, was he supposed to?

13 A I don't remember it. I do see me copying him on it.
14 So, yes, possibly so.

15 Q Okay. And that's your handwriting?

16 A Yes.

17 Q That we're looking at there?

18 A Yes.

19 Q Okay. And can you see what you wrote can you tell us
20 what it is?

21 A Yes do you want me to read it.

22 Q Sure.

23 A Okay, will do. Please inform their office. Copy, CC to
24 Roger.

25 Q Okay. And what it basically says is that this is an

T. Leissner - Cross/Mr. Agnifilo

1768

1 invitation as a panelist for the Malaysia Country Showcase
2 May 15, 2012, in Istanbul, Turkey, correct?

3 A That's correct, sir.

4 Q We're not going to read all of it, just introduce it.
5 It says, Bank Negara Malaysia will be organizing the Malaysia
6 Country Showcase on 15 May, 2012, at a location in Istanbul,
7 Turkey; correct?

8 A Yes, sir.

9 Q Okay. So when you said to Roger, That's why I don't
10 think Turkey will work, that's what you were referring to?

11 A In the context, yes, but not independently.

12 Q Not in what?

13 A I don't remember this combination of things, but in the
14 context of what you just showed, yes.

15 Q Okay. We're going to go on to Defense Exhibit 2310 for
16 identification.

17 Can you see that up top?

18 A Yes, sir.

19 Q This is e-mail traffic between yourself and others at
20 Goldman Sachs?

21 A Yes, sir.

22 MR. AGNIFIL0: We offer 2310, Judge.

23 MR. ROLLE: No objection.

24 THE COURT: It's admitted.

25 (Defendant's Exhibit 2310 was marked in evidence as

T. Leissner - Cross/Mr. Agnifilo

1769

1 of this date.)

2 Q We're going to go to the bottom e-mail there. This is
3 May 13, 2012. It's from Jasmine Loo to you, correct?

4 A That's correct.

5 Q And it says, Dear Tim, please make yourself available
6 and on standby at 11:00 a.m. onwards tomorrow for meeting
7 with his excellency Khadem Al-Qubaisi. I will confirm time
8 and venue shortly; correct?

9 A That's correct.

10 Q So you're now in sort of the home stretch of the first
11 bond deal?

12 A Correct.

13 Q Okay. Let's go to 2312 for identification. Can you see
14 it okay?

15 A Yes, sir.

16 Q All right. And this is a text from Vella to you?

17 A No, sir, I don't think so. It's to somebody else. I
18 think in the Emirates. That's not my telephone number.

19 Q I think you're absolutely, right, okay.

20 Do you recognize the number or no?

21 A I'm sorry, it's a Dubai number but that's all I
22 recognize.

23 Q Let's go to the next exhibit. This is 2313 for
24 identification.

25 Can you see it okay?

T. Leissner - Cross/Mr. Agnifilo

1770

1 A Yes, sir.

2 Q All right. This is an e-mail from Roger to you copying
3 Andy Tai, right?

4 A Yes.

5 MR. AGNIFIL0: We offer it as 2313.

6 MR. ROLLE: No objection.

7 THE COURT: It's admitted.

8 (Defendant's Exhibit 2313 was marked in evidence as
9 of this date.)

10 Q Okay. So here Roger is discussing issues surrounding
11 the bond and Usaha Tegas's potential buying of a large
12 portion of that bond issuance; correct?

13 A I have to read it.

14 Q Take your time.

15 A Yes, sir.

16 Q Okay. So just to remind the jury. So UT, Usaha Tegas,
17 was buying I think it was \$650 million of the bond issuance?

18 A Yes, I think that's correct.

19 Q Okay. And the people that Roger is referring to, GK and
20 Chee Beng, do you remember who GK was?

21 A Yes, that's Lim Ghee Keong. He was the treasurer at the
22 UT Group.

23 Q And Chee Beng, we discussed a few times, he's at
24 UT Group?

25 A He was one of the executive directors of the UT Group.

T. Leissner - Cross/Mr. Agnifilo

1771

1 Q So this sort of run-up to the bond closing, this is
2 Roger discussing different sort of ideas and concepts around
3 the buying of the bond by UT?

4 A Yes, and the settlement of the actual transaction as
5 well, but, yes, that's a broad description.

6 Q Okay. Let's go to the next exhibit. It's 2314 for
7 identification.

8 And we're going to look at that top e-mail there.
9 Do you see it okay?

10 A Yes.

11 Q It's between and you Jonathan Dunne, right?

12 A Yes.

13 MR. AGNIFILO: We offer it as 2314.

14 MR. ROLLE: No objection.

15 THE COURT: Admitted.

16 (Defendant's Exhibit 2314 was marked in evidence as
17 of this date.)

18 Q We're going to look at that top e-mail. And what you
19 write it Jonathan Dunne, Let's meet up in the morning to
20 discuss. I think IPIC will be okay now.

21 Do you see that?

22 A Yes, sir.

23 Q All right. Why do you say that? Was there a problem?
24 Why do you say, I think IPIC will be okay now?

25 A Do you mind if I see the whole e-mail for context.

T. Leissner - Cross/Mr. Agnifilo

1772

1 Q Yeah, sure, absolutely. I'll scroll down.

2 A That's all of it.

3 Q It starts on the second page. There you go. Show him
4 the whole thing. It starts there.

5 Read it and look up when you're done reading on the
6 screen we'll give you more to look at.

7 A Okay.

8 Q Okay. Scroll up.

9 A Okay.

10 Q I think that's the top.

11 A Yes.

12 Q Okay. So the question was: Why did you write, I think
13 IPIC will be okay now? If you know.

14 A Yeah, I don't remember, sir. This is relating to the
15 drafting of the offering circular, which means the prospectus
16 at the time, and I don't know why I'm making this reference
17 to that particular point.

18 Q Got it. Got it. Okay.

19 Do you remember in mid-May being asked to disclose
20 to the Malaysian Federal Government aspects of the deal so
21 that there would not be criticism later. And if you don't, I
22 can show you something to refresh your recollection.

23 A Would you mind doing that.

24 Q I'm just going to hand it to you. Well, I'll put it up.
25 I'll put it up. It's 2318. Can you see it there,

T. Leissner - Cross/Mr. Agnifilo

1773

1 Mr. Leissner?

2 A It's a little bit small. If you don't mind enlarging
3 it.

4 Q You know what I'm going to do. I'm going to hand this
5 to you. It's the second one down.

6 A Sure.

7 Q Thank you. It's only to refresh your recollection, it's
8 not something that you're on.

9 A Yes, sir.

10 Q Okay. So the question is: Does it refresh your
11 recollection that around this time period, May 16th, middle
12 of May time period, that you were expected by Goldman to have
13 some sort of conversation with someone in the Government of
14 Malaysia about this deal to prevent criticism of the deal
15 later?

16 A I can't say I remember it at all. I'm sorry.

17 Q That's fine. Thank you.

18 All right. We're going to move to 2319, Defense
19 Exhibit 2319 for identification. Can we make that a little
20 bit bigger on top.

21 And if we can also show him the top e-mail. Blow
22 that up.

23 A Yes.

24 Q So my only question for the moment, this is an e-mail
25 correspondence between yourself and Wassim Younan from

T. Leissner - Cross/Mr. Agnifilo

1774

1 Goldman Sachs?

2 A That's correct.

3 MR. AGNIFIL0: Your Honor, we offer it as 2319.

4 MR. ROLLE: We object. We could discuss it at the
5 break, Judge, if that's appropriate.

6 THE COURT: Members of the jury, we'll take our
7 morning break at this time. Please remember not to discuss
8 the case with each other and to keep your distance. Please
9 be back at a quarter to.

10 COURTROOM DEPUTY: All rise.

11 (Jury exits courtroom at 11:28 a.m.)

12 (Witness leaves the witness stand.)

13 THE COURT: Please be seated, everyone. Can I have
14 a copy of the exhibit?

15 MR. AGNIFIL0: Yes, Judge.

16 THE COURT: Okay. What's the Government's
17 objection?

18 MR. ROLLE: Your Honor, the Government objects
19 under §608. This witness has said numerous times on direct
20 and on cross he never met with Sheikh Mansour and that he
21 lied to people at Goldman Sachs. This e-mail is simply a
22 question from a Goldman Sachs colleague. If he did meet he
23 lies and says he did and the person thanks him. He testified
24 at length about this. It's only independent probative value
25 that I can see from it is just to add extrinsic evidence to

T. Leissner - Cross/Mr. Agnifilo

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1 document the lie that he's already said he did on
2 cross-examination and on direct examination.

3 THE COURT: Mr. Agnifilo.

4 MR. AGNIFILO: Yes, Your Honor.

5 It's key to the deal going through that he told
6 this lie at this particular moment in time. We're in the end
7 of the deal, the deal is about to close in about five days,
8 and he felt the need to keep the deal alive by lying in this
9 e-mail to his Goldman Sachs colleague.

10 So it's relevant as just a centerpiece of the case,
11 it's not extrinsic in the least. We've been putting in
12 e-mail traffic among people in Goldman Sachs as to how the
13 deal progresses and this is just another e-mail as to how the
14 deal progresses. There's nothing different about this
15 e-mail.

16 THE COURT: Except it doesn't speak to the deal at
17 all. All it speaks to is whether or not it says, May I ask
18 if you had met with the Sheikh in the early stages of this
19 project? And he said, Yes. And then the answer was, Okay.

20 MR. ROLLE: Just briefly on the facts, Judge.

21 Wassim Younan, and I believe the witness has
22 testified to this, is just another banker in Goldman Sachs in
23 charge of the Middle East region. He's not a committee
24 member. His sign-off doesn't matter about whether the deal
25 goes forward or not. As factual matter, I think that's

T. Leissner - Cross/Mr. Agnifilo

1776

1 reflected in the record now at this stage.

2 MR. AGNIFIL0: My interpretation of §608 is §608
3 deals with collateral issues. It deals with things that are
4 not in the heartland of the case, of the relevance of, you
5 know, in this case, the bond deal.

6 THE COURT: It deals with when you're
7 cross-examining a witness as to credibility.

8 So the issue is credibility versus evidence. And
9 here, you're offering this to show that, in fact, he lied to
10 this particular person at this particular time. You can ask
11 him about that, specifically, introducing the document to
12 show it is what is extrinsic and prohibited by bid §608.

13 MR. AGNIFIL0: We're going to be submitting a brief
14 to your Honor over the weekend.

15 THE COURT: That would be helpful, Counsel. As we
16 discussed a number of other issues, that's my understanding
17 of how this works. As I explained yesterday and, in fact,
18 all of the other documents you've been introducing has to do
19 with evidence as to the transactions at issue here.

20 I understand that your argument is that this does,
21 too, but the document itself is simply a representation of
22 what the witness has testified to the fact that he lied. And
23 what you are trying to get by introducing this document is to
24 show that on the specific date, he lied to this specific
25 person about this specific matter. He's already testified to

T. Leissner - Cross/Mr. Agnifilo

1777

1 that.

2 If you want to cross him on it, you can. You
3 certainly can ask him whether or not on this specific date
4 that he told, or you can tell him: On this date, he told
5 this person asked him this question and he told him that.
6 You can ask him. But I cannot put this specific document
7 into evidence for that purpose. That's what becomes
8 extrinsic under §608.

9 MR. AGNIFIL0: I understand. Most respectfully, we
10 object. We've been objecting but I do understand your
11 Honor's ruling. Thank you.

12 THE COURT: Anything else we need to discuss?

13 MR. AGNIFIL0: No, no the from us.

14 MR. ROLLE: No, Judge.

15 THE COURT: See the parties at a quarter to.

16 (A recess in the proceedings was taken.)

17 THE COURT: One thing for the parties to think
18 about. One of the jurors, one of the alternates, rescheduled
19 her appointment, doctor's appointment, to the week of March
20 28th and she's concerned that she won't be able to make them.
21 So why don't you think about whether that's going to be an
22 issue and let's talk about it.

23 MR. AGNIFIL0: Okay.

24 THE COURT: You can be seated until she brings in
25 the jury. She wants to know sooner rather than later if it's

T. Leissner - Cross/Mr. Agnifilo

1778

1 going to be a problem.

2 (Witness takes the witness stand.)

3 (Jury enters courtroom at 11:50 a.m.)

4 THE COURT: Please be seated, everyone.

5 Please continue, Mr. Agnifilo.

6 MR. AGNIFILO: Thank you, your Honor.

7 EXAMINATION BY

8 MR. AGNIFILO:

9 (Continuing.)

10 Q Mr. Leissner, do you recall just as the deal was in the
11 process of closing that at some point Wassim Younan asked you
12 to if you had met Sheikh Mansour?

13 A I don't remember it per se other than the e-mail you put
14 up just before the break.

15 Q And do you remember that you told them that you had met
16 Sheikh Mansour -- I'm sorry -- that you had only
17 delivered -- I'm sorry.

18 You said, Yes, to deliver the letter from the prime
19 minister.

20 A Again, I don't remember this conversation per se other
21 than the e-mail you just put up before the break.

22 Q And so, you don't remember having any correspondence
23 whether it be e-mail or verbal or thinking about Wassim
24 Younan about this topic?

25 A No, not particularly with Wassim, that's right.

T. Leissner - Cross/Mr. Agnifilo

1779

1 Q Do you remember you had it with other people?

2 A At Goldman Sachs, I had presented the fact that I had
3 delivered this letter myself to Sheikh Mansour.

4 Q And just to be clear: At no time -- let me ask it
5 differently.

6 At all times prior to the Magnolia deal closing if
7 anyone at Goldman Sachs asked you if you had met with Sheikh
8 Mansour your answer was yes?

9 A Yes.

10 Q All right. We're going to go on to Defense Exhibit 2322
11 for identification.

12 I'm going to ask you to look at that second e-mail
13 there if you can see it.

14 A Yes.

15 Q This is correspondence between yourself and others at
16 Goldman Sachs?

17 A Yes, sir.

18 MR. AGNIFILO: We ask that it be admitted as 2322.

19 THE COURT: It's admitted.

20 MR. ROLLE: Your Honor, we don't object to the
21 witness's statements but the top e-mail is not his.

22 MR. AGNIFILO: We can excise the top e-mail.

23 THE COURT: Okay. It's admitted subject to
24 redaction.

25 (Defendant's Exhibit 2322 was marked in evidence as

T. Leissner - Cross/Mr. Agnifilo

1780

1 of this date.)

2 MR. ROLLE: Thank you, Judge.

3 THE COURT: Do you want to just highlight -- yes.

4 MR. AGNIFILO: All right.

5 Q So let's, yeah, there you go. Okay.

6 We're going to look at first at the bottom e-mail.

7 The e-mail from Richard O'Callahan.

8 THE COURT: The Elmo might be easier for this one
9 because we're redacting part of it.

10 MR. AGNIFILO: We'll do that.

11 Q Can you read that okay, Mr. Leissner?

12 A Yes, I can.

13 Q Okay. And you're not on this e-mail. This e-mail chain
14 ends up being sent to you at a later point. But do you know
15 who Richard O'Callahan is?

16 A Yes, he was one of the lawyers at Linklaters which
17 represented Goldman Sachs in this matter.

18 Q And Richard O'Callahan writes to Jonathan Dunne and
19 Matthew Slater, Cyrus Shey. I think Matthew Slater might be
20 a new name for us.

21 Who is Matthew Slater?

22 A Matthew Slater was at head of legal in our
23 Southeast Asia office.

24 Q And Kevin Wong is another lawyer from this firm called
25 Linklaters?

T. Leissner - Cross/Mr. Agnifilo

1781

1 A Correct.

2 Q And Richard O'Callahan say, I was just discussing the
3 chain of corporate authorities with Jim at IPIC i.e., to help
4 us get comfortable to provide a clean --

5 THE COURT: Slow down.

6 Q To help us get comfortable to provide a clean opinion as
7 you have requested. He took a call from Khadem. Midway
8 through your our conversation, Khadem's instructions were for
9 pens to be put down immediately on the transaction until
10 further notice.

11 Do you see that he says that there?

12 A Yes, sir.

13 Q Okay. And then let's go to the e-mail above, hold on.

14 You can see that e-mail that's from Vella to you
15 and others?

16 A Yes, sir.

17 Q All right. And Vella says to you and others, Now that
18 is not good. Jasmine was seriously upset on the legal side
19 not coming through (she was in tears). I fear this may have
20 to do with that. Tim on the case to try to find out if she
21 knows what this is about.

22 Right?

23 A Correct.

24 Q Okay. Do you know what it was about?

25 A No, sir. We are really at the end and what I do recall

T. Leissner - Cross/Mr. Agnifilo

1782

1 is that Khadem posted several roadblocks at the end. But I
2 don't know the specific circumstance here.

3 Q Okay. And so, you don't know what Khadem Al-Qubaisi's
4 issue was that caused him to say, Put pens down?

5 A I can't remember in this particular instance on
6 May 17th, but that's correct.

7 Q Just so we understand. Putting pens down means no one
8 is working on the deal anymore?

9 A Correct.

10 Q Okay. All right. Let's go to the next e-mail, it's
11 2323, defense exhibit, for identification only.

12 All right. Do you see that okay?

13 A Yes, sir.

14 Q It's e-mail traffic between you and others at Goldman
15 Sachs?

16 A Yes, sir.

17 MR. AGNIFILO: We offer it, your Honor, as 2323.

18 MR. ROLLE: No objection.

19 THE COURT: It's admitted.

20 (Defendant's Exhibit 2323 was marked in evidence as
21 of this date.)

22 Q We're going to start with the bottom e-mail from Wassim
23 Younan to -- you're not on this e-mail but it gets sent to
24 you.

25 So we're going to start with this e-mail from

T. Leissner - Cross/Mr. Agnifilo

1783

1 Wassim to -- that's David Viniar?

2 A Yes.

3 Q Who was that?

4 A He was our CFO at the time. Our chief financial
5 officer.

6 Q Michael Sherwood?

7 A He was the CEO of our international business out of
8 London.

9 Q And Stephen Sher?

10 A At that time, he was, I believe, the head of Global
11 Capital Markets.

12 Q And Fran, is it, Bermanzohn?

13 A Yeah. I think at the time she was either head of legal
14 or compliance for international as well.

15 Q Okay. And Wassim Younan writes, I have just concluded
16 two separate telephone conversations on the above
17 transaction, specifically, as it relates to our request for
18 an IPIC board resolution. The first was with IPIC, IPIC's MD
19 H.E. Khadem Al-Quabasi who said the following: He
20 understands and acknowledges our request for a board
21 resolution.

22 A Yes.

23 Q If we could go to -- you have the whole thing there?

24 Then it says, He said that he has his Highness
25 Sheikh Mansour bin Zayed Al Nahyan in his highness' capacity

T. Leissner - Cross/Mr. Agnifilo

1784

1 as chairman of IPIC approval to proceed with the transaction?

2 A Correct.

3 Q And that given the tight deadline for closing the
4 transaction within the next 48 hours.

5 THE COURT: Slow down, counsel.

6 MR. AGNIFILO: Yes, Judge.

7 Q He does not have enough time to convene the board. Had
8 he had the luxury of time, he would have with certainty
9 convened the board and delivered to us the board resolution.

10 And then he goes on to say other things saying that
11 the deal could basically go forward; correct?

12 A Let me just read it.

13 Q Sure. Take your time.

14 A Yes, sir.

15 Q Okay. All right. The next e-mail is 2324 for
16 identification.

17 And this is e-mail traffic between yourself and
18 others at Goldman Sachs; correct?

19 A Yes, sir.

20 (Continued on the next page.)

21

22

23

24

25

Leissner - cross - Agnifilo

1785

1 (Continuing)

2 MR. AGNIFIL0: We offer 2324, Judge.

3 THE COURT: It's admitted.

4 (Defendant's Exhibit 2324 received in evidence.)

5 (Exhibit published.)

6 CROSS EXAMINATION

7 BY MR. AGNIFIL0: (Continuing)

8 MR. AGNIFIL0: We're only going to look at the top
9 two e-mails. We're going to start with the bottom one, that's
10 it. Those two and the bottom one of those two.

11 Q This is from Vella to a great number of people at Goldman
12 Sachs; correct?

13 A That's correct.

14 Q It says, I understand UT, Usaha Tegas Group, has agreed,
15 Roger Ng or legal HK, Hong Kong, can you please confirm when
16 you see the signed letter from UT, thanks?

17 A Correct.

18 Q Okay. Now, what signed letter from UT are you looking
19 for at this stage?

20 A It was the letter for them to commit to buy the bond, the
21 Magnolia bonds as part -- it was I think an exchange
22 vis-à-vis, you know, a reduction in the purchase price
23 effectively.

24 Q And then Roger writes back: 1MDB all sign, the last
25 amended Tanjong letter is still in process of being executed

Leissner - cross - Agnifilo

1786

1 by UT"; correct?

2 A That's right.

3 Q Now, do you recall that as the deal was closing,
4 literally in the waning days of you guys working on the deal,
5 you were having communication with someone named Jonathan
6 Rowland?

7 A I don't know the timing with -- in my communication with
8 Jonathan.

9 I did have communications with him, but I don't
10 remember the timing of those.

11 Q Who is Jonathan Rowland?

12 A He was part of a family in the U.K. that Roger and I had
13 engaged with potentially in this outside private-equity group
14 that we were thinking of forming. He was also the Chairman of
15 Banque Havilland in Luxemburg -- in Luxemburg and Monaco.

16 Q And were you considering, in May of 2012, having some
17 sort of business venture with Jonathan Rowland?

18 A Again, I don't know the exact timing, sir, but Roger and
19 I had this discussion, I think with Boon-Kee as well, to
20 potentially set up a fund with the Roland family.

21 Q Now, the deal closes around May 20th, in that time
22 period; correct?

23 A May 21st.

24 Q May 21st, and after the deal closes, you have another
25 deal that you're about to start working on called Project

Leissner - cross - Agnifilo

1787

1 Encore?

2 Is that the IPO for Astro, the second IPO for Astro?

3 A It could be, sir. I can't remember.

4 MR. AGNIFILO: I'm going to ask to mark for
5 identification -- hang on. Is 1356 in?

6 We're going to mark for identification -- it's a
7 Government Exhibit. It's GX 1356A and we're going to be
8 looking at page 8.

9 Q Can you see that okay?

10 A Yes, sir.

11 Q And this is a receipt with your handwriting on it?

12 A Yes, sir.

13 MR. AGNIFILO: We offer it, Your Honor, as GX
14 1356A-008.

15 MR. ROLLE: No objection.

16 And we would, as with the prior, admit the whole
17 voluminous document of 1356A.

18 THE COURT: Mr. Agnifilo, I take it you have no
19 objection?

20 MR. AGNIFILO: No, not at all.

21 THE COURT: I'll admit the entire document, GX
22 1356A.

23 (Defendant's Exhibit 1356A received in evidence.)

24 (Exhibit published.)

25 Q Okay. And this indicates a meal at a place called China?

Leissner - cross - Agnifilo

1788

1 A Yes.

2 Q Is that what it says on top?

3 A Yes.

4 Q What is that?

5 A It was a small restaurant in the Hilton. I don't
6 actually remember much of it, but, yes, a Chinese restaurant,
7 I believe.

8 Q A Chinese in the KL Hilton?

9 A Yes.

10 Q Kuala Lumpur Hilton?

11 A That's correct.

12 Q And this is you and Rohana Rohzan?

13 A That's correct.

14 MR. AGNIFIL0: We're going to go to 2331 for
15 identification.

16 Q And is this e-mail traffic between yourself and others at
17 Goldman Sachs?

18 A Could we blow it up?

19 Q Yeah, absolutely. I can hand you the actual page.

20 A Thank you, sir.

21 Yes, sir.

22 Q Okay. And this is e-mail traffic between you and others
23 at Goldman Sachs concerning this project, the project
24 regarding Astro?

25 A Yeah. It's a visit that one of our colleagues from the

Leissner - cross - Agnifilo

1789

1 U.S. was having in Malaysia to meet with Astro and the Usaha
2 Tegas team.

3 Q And do you remember at this particular point in time that
4 Astro management was making some sort of presentation to
5 Goldman Sachs?

6 A I read it here. I don't remember the specific incident
7 or circumstance.

8 MR. AGNIFIL0: Your Honor, we ask that 2331 be
9 admitted.

10 MR. ROLLE: We had object, same grounds as
11 yesterday, Judge. I think at this point 401 and potentially
12 608.

13 THE COURT: I will defer ruling on it, counsel.

14 MR. AGNIFIL0: That's fine, Judge. That's fine.

15 I will take it from you.

16 Q Do you remember starting to see Rohana Rohzan more after
17 you closed the Magnolia deal?

18 A No, I wouldn't think so, sir. More, I don't recall.

19 Q No? All right.

20 MR. AGNIFIL0: We're going to go to 2332 for
21 identification.

22 Q E-mail traffic between you and Michael Evans, Michael
23 Evans of Goldman Sachs?

24 THE COURT: It's not up yet.

25 MR. AGNIFIL0: Oh, I'm sorry, Judge.

Leissner - cross - Agnifilo

1790

1 A Yes, sir.

2 MR. AGNIFIL0: Your Honor, we offer it as 2332.

3 MR. ROLLE: No objection.

4 THE COURT: It's admitted.

5 (Defendant's Exhibit 2332 received in evidence.)

6 Q Who is Michael Evans again?

7 A Michael Evans was the chairman for Goldman Sachs in Asia
8 and he was also a vice chairman of the firm in our executive
9 office here in New York.

10 Q And this is an e-mail from Michael Evans just to you;
11 correct?

12 A That's correct.

13 Q And it says, Great job on 1MDB IPIC, look forward to
14 seeing you next week; right?

15 A Yes, sir.

16 Q You say, Many thanks, Mike, looking forward to that;
17 right?

18 A Yes.

19 Q This is a congratulations e-mail for the work you did on
20 the 1MDB?

21 A Yes.

22 MR. AGNIFIL0: We're going to look at the next
23 defense exhibit. It is Defense Exhibit 2333.

24 Q It is an e-mail from Jasmine Loo to yourself and Andy
25 Tai; is that correct?

Leissner - cross - Agnifilo

1791

1 A That's correct.

2 MR. AGNIFIL0: We offer 2333, Judge.

3 MR. ROLLE: No objection.

4 THE COURT: It's admitted.

5 (Defendant's Exhibit 2333 received in evidence.)

6 (Exhibit published.)

7 Q And this is from Jasmine Loo from 1MDB. And it says.

8 Attached are some historical info I have, hope they are
9 useful. Please treat with care; right?

10 A Yes.

11 Q And this is to you and Andy Tai; right?

12 A Correct.

13 Q And the information that she attaches is in regard to
14 Genting Oil & Gas Limited; correct?

15 A It's regarding Genting Power and oil and gas.

16 Q This is the start of the Genting deal, the second bond
17 deal?

18 A I believe so, yes.

19 Q So about 10 days or so after Project Magnolia closes,
20 you'd agree with me that Jasmine Loo sends an e-mail just to
21 yourself and to Andy Tai introducing this second deal?

22 A Yes.

23 MR. AGNIFIL0: We're going to go to 2350 for
24 identification.

25 Q You can see that okay?

Leissner - cross - Agnifilo

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1 A Yes, sir.

2 Q All right. It's e-mail traffic between yourself and Jho
3 Low and Seet Li Lin?

4 A Yes, sir.

5 MR. AGNIFIL0: We offer it as 2350?

6 MR. ROLLE: No objection.

7 THE COURT: It's admitted.

8 (Defendant's Exhibit 2350 received in evidence.)

9 Q So this is from Seet Li Lin. Remind us again who is Seet
10 Li Lin?

11 A He was a financial analyst working for Jho.

12 Q What he says is, Hi, Tim, Jho would like to schedule a
13 meeting with you to discuss an opportunity?

14 A Yes, sir.

15 Q Will be available next Monday at 3:00 p.m. to meet in HK,
16 Hong Kong, please let me know; right?

17 A That's right.

18 Q And this proposed meeting, there is a date indicated
19 there, it's Monday, 11th, June 2012; correct?

20 A Yes, I guess. Yes, that's right. Correct.

21 Q And you say, Yes, absolutely. I also have a new
22 opportunity on the oil and gas side. Will bring the info with
23 me. Best, Tim. Right?

24 A Yes, sir.

25 Q Now, by this point, by this point in time, June the 7th,

Leissner - cross - Agnifilo

1793

1 2012, the date of this e-mail, you haven't gotten any money
2 from Jho Low; correct?

3 A Yes, that's correct.

4 Q I'm going to show you what has been marked in evidence as
5 Government Exhibit 2421.

6 MR. AGNIFILO: It's admitted.

7 Q 2421. I just want to look at the dates for a second.

8 MR. AGNIFILO: Judge, I think what we have decided
9 is this is going to be this exhibit, but with subdivision A.

10 THE COURT: 2421?

11 MR. AGNIFILO: A.

12 THE COURT: Okay. This is a spreadsheet; correct?

13 MR. ROLLE: Yes.

14 MR. AGNIFILO: It's a spreadsheet.

15 MR. ROLLE: Yes, Judge.

16 Q So, I just want to go back to the e-mail for a second.
17 The e-mail from Seet Li Lin says that Jho would like to
18 schedule a meeting with you to discuss an opportunity --

19 MR. AGNIFILO: No, we don't -- sorry.

20 Q -- Jho would like to schedule a meeting with you to
21 discuss an opportunity, and the meeting that he wants to have
22 with you is on June 11, 2012; correct?

23 A That's right.

24 Q And by this point, you haven't gotten any money from what
25 you're saying you're owed from the bond deal; right?

Leissner - cross - Agnifilo

1794

1 A That's correct.

2 Q Okay. But on the same day as the meeting with Low for
3 this new opportunity, he sends \$35,000 -- I'm sorry, 35
4 million, \$35 million to Capital Place Holdings Limited;
5 correct?

6 A Blackstone Asia sends it, but yes.

7 Q It's from Blackstone Asia to Capital Place Holdings
8 Limited?

9 A That's correct.

10 Q And just to be clear, the way the numbers kind of work
11 here, it's a little bit of the reverse the way we do it in the
12 United States. This is June, that first entry is June 11th;
13 it's not November 6th?

14 A That's correct.

15 Q So you understand that to be June 11, 2012; correct?

16 A That's correct.

17 Q And if we could go back to 2350, and we blow up those top
18 two e-mails, you'd agree with me that right there in the
19 subject line it's Monday, June 11, 2012; right?

20 A That's what it says.

21 Q It says, Hi, Tim, Jho would like to schedule a meeting
22 with you to discuss an opportunity."

23 A Yes.

24 Q And you go to the meeting in Hong Kong?

25 A I don't remember this particular meeting, sir, sorry.

Leissner - cross - Agnifilo

1795

1 MR. AGNIFILO: We're going to go the next exhibit.

2 It is 2368 for identification.

3 Q Can you see it okay?

4 A Yes.

5 Q Who is -- I think we've discussed him before -- Stephen
6 Dattels?

7 A Stephen Dattels, yes.

8 Q Who is it again?

9 A He was the Chairman of Polo Resources and who had, you
10 know, founded the company as well.

11 Q And you had discussions with Stephen Dattels about 1MDB;
12 correct?

13 A Yes.

14 Q What did you discuss with Stephen Dattels about 1MDB?

15 A Actually, there were several discussions, both Roger and
16 I had those with him and the company Polo Resources and they
17 were many fold: One was for 1MDB to buy certain assets from
18 Polo or for 1MDB to actually buy Polo Resources.

19 Q And did you have any association or connection to Polo
20 Resources?

21 A Well, we had discussed this before too. They were
22 offering me a job at some point.

23 Q And what point was that?

24 A Before these 1MDB transactions. Maybe in 2010, 2011.

25 Q And what was the job they were offering you?

Leissner - cross - Agnifilo

1796

1 A The CEO.

2 Q You were going to be CEO of Polo?

3 A That's right.

4 Q What happened to that opportunity?

5 A It fell away. We couldn't agree.

6 MR. AGNIFILO: All right. We're going to go to
7 2367.

8 THE COURT: Are you offering 2368?

9 MR. AGNIFILO: No, Judge.

10 THE COURT: Okay.

11 Q 2367, do you see it there, for identification?

12 A Yes.

13 Q It's an e-mail between yourself and Jasmine Loo?

14 A Yes.

15 MR. AGNIFILO: We offer it, Your Honor.

16 MR. ROLLE: No objection.

17 THE COURT: It's admitted.

18 (Defendant's Exhibit 2367 received in evidence.)

19 Q So this is just between you and Jasmine Loo; correct?

20 A Yes, sir.

21 Q And you're discussing -- does that say Project Magnolia
22 II?

23 A Yes.

24 Q And was that a reference to Maximus? Is Magnolia II and
25 Maximus the same thing?

Leissner - cross - Agnifilo

1797

1 A That's what I believe so, yes.

2 Q Okay. And you are discussing certain aspects of the
3 deal, just you and Ms. Jasmine Loo; correct?

4 A It appears that she's sending me a PowerPoint
5 presentation, sir.

6 Q Okay. Asking you if you have any comments?

7 A Yes.

8 MR. AGNIFILO: Okay. I'm going to ask to mark for
9 identification defense 2371, but it's not going to be the
10 entire exhibit as we have it here. It's only going to be the
11 bottom portion of it where Mr. Leissner has indicated. So
12 let's put it on the screen only for Mr. Leissner, but only
13 look at the bottom e-mail.

14 Q Can you see that okay?

15 A Yes, I can. Thank you.

16 Q This is e-mail traffic from Hazem Shawki to yourself and
17 others at Goldman Sachs; correct?

18 A Yes.

19 MR. AGNIFILO: All right. We offer 2371.

20 MR. ROLLE: One moment, Judge.

21 (Pause.)

22 MR. ROLLE: Thank you, Judge. The top portion, as
23 discussed before, won't be part, so no objection.

24 THE COURT: So I will admit 2371 subject to
25 redaction.

Leissner - cross - Agnifilo

1798

1 MR. AGNIFIL0: Yes, Judge.

2 (Defendant's Exhibit 2371 received in evidence.)

3 Q Okay. So this is from Hazem Shawki. It's to Andrea
4 Vella, Simon Watson, Mazen Makarem, yourself, Deepak Rao, and
5 Simon Gosling; right?

6 A Yes, sir.

7 Q And it says, Andrea, we were seeing some guys in AD, Abu
8 Dhabi, today, close to Khadem, who seems to indicate he's
9 positive on the trade we discussed. I'm not sure if we were
10 able to get some sort of indication from the MDB side on what
11 incremental financing they can access domestically.

12 What are you all talking about here?

13 You can read the rest of it. Feel free.

14 A Thank you.

15 I have to admit, I don't understand what he's
16 talking about here.

17 Q Okay. Let me just direct you to the second to last short
18 paragraph there. It just says, Obviously, 1MDB can always
19 refinance this when or if Sumitomo discussions progress.

20 Do you see that there?

21 A Yes, I see.

22 Q Okay. Do you remember we were talking yesterday about a
23 trip you made to Tokyo?

24 A Yes, sir.

25 Q We were discussing that in connection with Sumitomo?

Leissner - cross - Agnifilo

1799

1 A Yes. Vaguely I remember. Yes.

2 Q Did Sumitomo have any dealings with 1MDB?

3 A I can't recall. I can't recall Sumitomo in particular.

4 Again, what I had mentioned at some point later on
5 we a discussion with JPIC, which was a Japanese bank owned by
6 the Government. But Sumitomo, I don't remember.

7 Q And I think you said you don't remember and I actually
8 don't remember what you said. Do you remember if Low was at
9 that meeting in Tokyo?

10 A I don't remember that meeting, sir.

11 Q You don't remember it at all?

12 A Yeah.

13 Q But you do remember going to Tokyo?

14 A Other than what you showed me at the time.

15 Q Other than what I showed you, you have no recollection of
16 that meeting at all?

17 A No. Again, I was taking so many flights during that
18 year. That particular trip, I don't remember.

19 MR. AGNIFIL0: Let's go to 2378. And this is an
20 e-mail from your assistant Christine Chan to you and this has
21 sort of parts of your schedule in it.

22 A Yes, sir.

23 MR. AGNIFIL0: We offer it as 2378.

24 MR. ROLLE: Your Honor, 401 at this point, would be
25 our objection.

Leissner - cross - Agnifilo

1800

1 That may become clear, but at this point.

2 THE COURT: Why don't you continue with your
3 questions, Mr. Agnifilo.

4 MR. AGNIFILO: Sure. Sure. Yes.

5 Q Do you recall in the later part of July, 2012 traveling
6 from Singapore to London in connection with Project Greyhound?

7 What was Project Greyhound, before I ask you that?

8 A Project Greyhound was the acquisition of the Genting
9 Power assets, which formed Greyhound and then Maximus.

10 Q So Project Greyhound what the second bond deal?

11 A That's right.

12 MR. AGNIFILO: Your Honor, we offer 2378.

13 MR. ROLLE: Same objection.

14 THE COURT: I'm going to defer with the last
15 document and we will discuss it during the break, Mr.
16 Agnifilo.

17 MR. AGNIFILO: Very good.

18 THE COURT: Can you continue with your questioning?

19 MR. AGNIFILO: Yes.

20 Q Forgetting the e-mail itself for a second. Do you recall
21 having meetings with Ananda Krishnan around this period of
22 time?

23 A Ananda was one of those relationships that I cultivated,
24 so I was meeting him on many occasions.

25 If you're referring to specific July of 2012, no, I

Leissner - cross - Agnifilo

1801

1 can't remember if I met him during the time, but I was meeting
2 him many times, as many times as I could, quite frankly.

3 Q Okay. And do you remember traveling to Moscow around
4 this time?

5 A Yes.

6 Q Why did you go to Moscow?

7 A I was invited by the Vietnamese delegation visiting
8 Moscow for a potential telecom deal in Vietnam.

9 Q Fair to say you're working on a lot of deals at this
10 particular point in time?

11 A That's right.

12 Q You have a telecom deal with the Vietnamese company;
13 right?

14 A Correct.

15 Q Why do you go to Moscow for that?

16 A Because the company that was going to invest in 4G, which
17 is one of the telecom licenses in Vietnam was from Russia, was
18 in Russia.

19 Q Now, in addition to having business dealings with Ananda
20 Krishnan, the two of you were social friends; correct?

21 A Well, social friends may be overstating it. We met
22 socially, which was part of -- very much part of the job of
23 banker.

24 Q And you went Mykonos on his yacht?

25 A That's right.

Leissner - cross - Agnifilo

1802

1 Q You vacationed with him, meaning you went with him, you
2 know, in different parts of the world, in vacation settings
3 like Mykonos; correct?

4 A Again, that was not unusual for bankers at Goldman dole
5 to do. But, yes, his boat was probably the only time in kind
6 of a vacation setting, that's correct.

7 Q So I'm not asking if it's usual or unusual. I'm just
8 trying to ask you the different connections you had with the
9 different people in these deals.

10 A Sure. Yes.

11 MR. AGNIFIL0: Let's go to 2379 for identification.

12 Q Do you see that e-mail?

13 A Yes.

14 Q And it is between Nik Faisal and yourself and Jasmine
15 Loo?

16 A Yes, sir.

17 MR. AGNIFIL0: We offer it as 2379.

18 THE COURT: Is there any objection to this document,
19 Mr. Rolle?

20 MR. ROLLE: Your Honor, the same 401.

21 THE COURT: Can I have a copy of these documents?

22 MR. AGNIFIL0: Sure. Yeah, yeah, yeah.

23 THE COURT: The objection is overruled. You can
24 answer.

25 It's admitted.

Leissner - cross - Agnifilo

1803

1 (Defendant's Exhibit 2379 received in evidence.)

2 MR. AGNIFIL0: All right. So if we could pull up
3 2379.

4 (Exhibit published.)

5 Q That says it's from Nik Faisal; right?

6 A That's from me to him.

7 Q I'm sorry. Yes. From you to Nik Faisal; correct?

8 A That's right.

9 Q And it's copied to Jasmine; right?

10 A Correct.

11 Q Now, are you intending to reach Nik Faisal or are you
12 intending to reach Jho Low?

13 A I don't actually know, sir, from this exchange. If you
14 show me the attachment, maybe that helps me.

15 Q If we can pull it up, I'll show you.

16 But for the time being, Jho Low used the name Nik
17 Faisal on occasion; correct?

18 A That was my understanding at least, yes, sir.

19 Q And, so, on this particular occasion, you're not sure if
20 you are reaching out for Nik Faisal as Nik Faisal or if Nik
21 Faisal actually is Jho Low?

22 A Sitting here today, I don't know, yes.

23 Q Very good.

24 MR. AGNIFIL0: We're going to look at Defense
25 Exhibit 2387 for identification.

Leissner - cross - Agnifilo

1804

1 Q You can see it there?

2 A Yes, sir.

3 Q Okay. And this is between yourself and Judy Chan
4 Leissner?

5 A That's correct.

6 MR. AGNIFILO: We offer it as 2387.

7 MR. ROLLE: No objection.

8 THE COURT: It's admitted.

9 (Defendant's Exhibit 2387 received in evidence.)

10 (Exhibit published.)

11 MR. AGNIFILO: All right.

12 Q We're going to look at the bottom e-mail. That's from
13 you?

14 A Yes.

15 Q Hold on. Let's just pull it up so it's a little bit
16 bigger.

17 That's from you. It's dated August 7, 2012;
18 correct?

19 A Yes, sir.

20 Q And you write Could you do me a favor, please transfer
21 U.S.D., U.S. dollars 900,000 to the following; correct?

22 A Yes, sir.

23 Q And then the beneficiary name is Spring Elite
24 International Limited; right?

25 A That's right.

Leissner - cross - Agnifilo

1805

1 Q And this is at BSI bank?

2 A Correct.

3 Q Now, that's a bank that I think you discussed a fair
4 amount on direct examination and Yak Yew Chee was one of the
5 bankers at BSI?

6 A Yes. That's correct.

7 Q Who directed you to send this payment?

8 A I remember it was either Jho or Eric Tan.

9 Q Okay. And were you told who the beneficial owner was of
10 the Spring Elite International Limited account?

11 A No, sir. I don't believe so.

12 Q And, so, when either Jho Low or Eric Tan gave you this
13 information, they only gave you the name Spring Elite
14 International Limited?

15 A That's correct.

16 Q They didn't tell you who that actually was, the human
17 being behind the account?

18 A That's correct.

19 Q And you didn't ask?

20 A Correct.

21 Q And they also gave you the amount; correct?

22 A That's right.

23 Q Which in this case is 900,000 U.S. dollars?

24 A That's correct.

25 Q And you're having Judy, your wife at the time, send this

Leissner - cross - Agnifilo

1806

1 money; correct?

2 A Yes, sir.

3 MR. AGNIFIL0: All right. Let's go the next
4 exhibit, 2388.

5 Q Do you recall if in or around August of 2012 if you were
6 having conversations with Stephen Dattels around Kazakh Gold?

7 A No. I see what you're showing me here, but no, I can't
8 remember that.

9 Q I think you talked on direct examination about Kazakh
10 Gold?

11 A Yes.

12 Q And just remind the jury, because it was a few days ago,
13 what was Kazakh Gold?

14 A Kazakh Gold was a gold mine -- a company owning a gold
15 mine in Kazakhstan that Jho, in his -- one of his investment
16 vehicles, together with a Kazakhstan family was trying to
17 acquire and then subsequently IPO afterwards.

18 Q And at the end of the day, Goldman Sachs ended up not
19 going through with the deal?

20 A That's right.

21 Q Okay. And do you remember at this point, in August of
22 2012, you're having discussion with Stephen Dattels about
23 possibly Stephen Dattels doing something with Kazakh Gold?

24 A No, I don't remember that, sir.

25 MR. AGNIFIL0: All right. We're going to go to the

Leissner - cross - Agnifilo

1807

1 next defense exhibit, 2389.

2 Q Can you see it okay?

3 A Yes, sir.

4 Q It's from you to Jasmine Loo, correct, the top e-mail?

5 A Yes.

6 Q And the bottom one is from her to you?

7 A Yes.

8 MR. AGNIFIL0: We offer it as 2389.

9 MR. ROLLE: No objection.

10 THE COURT: It's admitted.

11 (Defendant's Exhibit 2389 received in evidence.)

12 (Exhibit published.)

13 Q Now, looking at the e-mail that Jasmine sends to you, it
14 starts with Hi, Mohamed.

15 Do you have an understanding as to why she started
16 with Hi, Mohamed?

17 Is she forwarding something to you? Do you know one
18 way or the other?

19 A I think she's ask -- because if you look at the subject
20 line, sir, it says, Please see if the below is okay.

21 I think, sitting here today, it's a draft of an
22 e-mail she was proposing to send to Mohamed Al-Husseiny.

23 Q It says, Hi, Mohamed, I hope you're doing well. We are
24 signing this Genting SPA this Friday?

25 A Yes.

Leissner - cross - Agnifilo

1808

1 Q What's the Genting SPA?

2 A The sale and purchase agreement, meaning the document to
3 acquire the Genting Power assets.

4 Q Then she goes on to say, I will arrive in Abu Dhabi on
5 Saturday night; right?

6 A Yes.

7 Q Would the following schedule suit so that we may finalize
8 the IPIC documentation before Tuesday, 14 August? That's what
9 she says; right?

10 A Yes.

11 Q Then she sets forth a series of scheduled dates and
12 events: The first is Sunday, August 12, 9:30 a.m. to 10:30
13 a.m., meeting just between Tim, myself and you to go through
14 documents; right?

15 A That's right.

16 Q Okay. Then Sunday 11:30 a.m. to 12:30 a.m. meeting
17 between us to include IPIC CFO.

18 Who was the IPIC at this point?

19 A A gentleman called Murtadha. I don't recall his full
20 name. But Murtadha was his name. I believe.

21 Q And Jim Sullivan, who was Jim Sullivan?

22 A Jim Sullivan was the legal advisor to the CEO, Khadem of
23 IPIC.

24 Q And then it says, Sunday 2:00 p.m. to 5:00 p.m. at IPIC
25 office with GS team.

Leissner - cross - Agnifilo

1809

1 Do you see that there?

2 A Yes.

3 Q IPIC CFO and Jim Sullivan to go through documents; right?

4 A Correct.

5 Q And do you know if that meeting ever took place with the
6 Goldman Sachs team?

7 A Specifically with the Goldman Sachs team?

8 Q Right.

9 A Yes, at some point. I don't know on this particular date
10 or day, that I can't confirm. But, yes, we did have that
11 meeting regarding Project Maximus at some point in that time
12 frame, in that general time frame.

13 Q And how many times did you travel, if at all, to Abu
14 Dhabi in connection with Project Maximus?

15 A Several times, sir. I don't recall neither Magnolia nor
16 Maximus how many times, but several times.

17 Q And how many times, if at all, did Roger Ng travel to Abu
18 Dhabi in connection with Project Maximus?

19 A I don't know, sir.

20 Q Did he travel at all in connection with Project Maximus?

21 A I can't recall.

22 Q And then it says by Monday, August 13th, 5:00 p.m., all
23 documents from IPIC side duly signed by His Honor, the IPIC
24 CEO, and delivered to Goldman Sachs; right?

25 A That's correct.

Leissner - cross - Agnifilo

1810

1 Q Okay. So what she's doing here, as you pointed out, is
2 she's basically asking if this e-mail to Mohamed Al-Husseiny
3 is -- sort of -- she's running it past you?

4 A That's right. Correct.

5 Q And you respond perfection?

6 A Yes.

7 MR. AGNIFIL0: Now, we're going to go to 2390,
8 Defense 2390 for identification. And we're just going to look
9 at that top e-mail for the moment.

10 Q You can see that okay?

11 A Yes, I can.

12 Q This is e-mail traffic between yourself and others at
13 Goldman Sachs; correct?

14 A Yes.

15 MR. AGNIFIL0: We offer it, Your Honor, as 2390.

16 MR. ROLLE: No objection.

17 THE COURT: It's admitted.

18 (Defendant's Exhibit 2390 received in evidence.)

19 (Exhibit published.)

20 Q All right. We're going to start by going to the first
21 e-mail in the string, which is on the 13th.

22 So the first e-mail on the string, you're not in
23 this particular e-mail, you get the e-mail string in a little
24 while, is from Jonathan Donne.

25 Do you see that?

Leissner - cross - Agnifilo

1811

1 A Yes, sir.

2 Q And it's to other people in Goldman Sachs, Ali Al Ali,
3 Hazem Shawki, Wassim Younan, Andrea Vella, Toby Watson; right?

4 A That's correct.

5 Q And it says, IPIC asking for docs ASAP so we may not get
6 opportunity to discuss this in detail before it goes to
7 Jasmine; right?

8 A Yes.

9 (Continued on next page.)

10

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25

LEISSNER. CROSS. AGNIFILO

1812

1 CONTINUED CROSS-EXAMINATION

2 BY MR. AGNIFILO:

3 Q Should you have any questions, please e-mail. Do you
4 see that there?

5 A Yes, sir.

6 Q We're going to go to the next -- the next e-mail.
7 Which we're -- feel free to read it, but basically this is
8 Ali Al Ali naming out a number of different questions and
9 issues in connection with the deal as it's unfolding as of
10 August 9, 2009, correct?

11 A Yes.

12 Q And feel free to read it if you want to characterize it
13 any other way.

14 A Yes. Those are his comments or questions regarding his
15 presentation to be given to IPIC.

16 Q And then the e-mail up from there is from Hazem Shawki.
17 It's to you and others. And it says Tim, just checking if
18 you gotten okay from Jasmine to send info ahead of time to
19 IPIC.

20 Do you see that?

21 A Yes.

22 Q So he's asking you if you got the okay from Jasmine
23 Loo, right?

24 A Correct.

25 Q And then he says, we know Malcom is asking for some.

LEISSLER. CROSS. AGNIFILO

1813

1 Would be great to offer some ground ahead of next week,
2 right?

3 A Yes.

4 Q Do you know who Malcom was?

5 A Malcom was one of the legal people within IPIC.

6 Q All right.

7 Next e-mail up is -- actually, two e-mails up is
8 from Hazem Shawki to you and others. And he says great. So
9 she's sending across direct or via Mohammed, right?

10 A Right.

11 Q All right.

12 So the question is: Is Jasmine going to be giving
13 him directly or it is it going to be coming through Mohammed
14 al-husseini?

15 A Yes.

16 Q Up from there we have e-mail from Hazem to yourself,
17 Ali Al Ali, Jonathan Donne, Wassim Younan, Andrea Vella,
18 Toby Watson, regarding the IPIC presentation. And Hazem
19 says, Mohammed just informed me that meeting is confirmed at
20 IPIC at 11:30 a.m. with 1MDB GS and IPIC team, right?

21 A That's correct.

22 Q Let's go to the top e-mail, just to round this out.

23 This is an e-mail from you, the top e-mail?

24 A Yes.

25 Q And you say, see you all at the Etihad towers, correct?

LEISSNER. CROSS. AGNIFILO

1814

1 A Yes.

2 Q And what you all is in this context is Wassim Younan,
3 Toby Watson, Ali Al Ali, Hazem Shawki, Jonathan Donne, and
4 Andre Vella, correct?

5 A That's correct.

6 Q Going to 2391. Can you see it okay?

7 A Yes.

8 Q All right.

9 Remember I was asking you yesterday about this
10 company called Signet.

11 A Yes.

12 Q And I asked you what your connection was to Signet?

13 A Yes.

14 Q And you said you had a small \$1 million investment in
15 Signet?

16 A Yes.

17 Q And then I asked you if you were on the board of
18 Signet?

19 A Yes.

20 Q And you said that you may have joined the board for a
21 short period of time?

22 A That's right.

23 Q Were you the chairman of Signet?

24 A I don't remember it, but I may have been.

25 Q So when I asked you yesterday what your connection was

LEISSLER. CROSS. AGNIFILO

1815

1 to Signet, and the first thing you said was you said I had a
2 small, \$1 million dollar investment. Then I had to ask you
3 another question that you were on the board, and you said
4 you may be been on the board for a short time, it turns out
5 you were the chairman?

6 MR. ROLLE: Objection.

7 THE COURT: Sustained rephrase the question.

8 Q Were you the chairman of Signet?

9 A Yes. I don't remember it particularly because it
10 wasn't very important. But I may have been, yes.

11 Q When you say you may have been, are you not sure?

12 A Yeah. It was really not an important position at that
13 time, nor an important activity for me.

14 Q And the chairman is -- in a company, how do you
15 characterize the position of the chairman?

16 A It can be just a -- it depends on the company, of
17 course. It can be a powerful position, or it can be one
18 that's just, on paper, a position. Signet was a really
19 small, private company. This was not an important position.

20 Q When you say may, you were the chairman of Signet?

21 MR. ROLLE: Objection.

22 THE COURT: What's your objection?

23 MR. ROLLE: Asked and answered and
24 mischaracterizes his testimony.

25 THE COURT: Overruled. You can answer the

LEISSNER. CROSS. AGNIFILO

1816

1 question.

2 Q Were you the chairman of Signet?

3 A Yes. I may have been. I don't remember it, sir. It
4 wasn't an important position. But yes, I do recall I was on
5 the board of it. But again, it was a really small company.

6 Q And if you're the chairman of an outside company, are
7 you supposed to tell Goldman Sachs that?

8 A Yes, sir.

9 Q Did you tell Goldman Sachs that you were the chairman
10 of Signet?

11 A No, I did not.

12 Q And did Signet have some connection to Polo Resources?

13 A It was owned by the same people and at some point, Polo
14 Resources bought it.

15 Q This is the Dettels we've been talking about?

16 A Yes, correct.

17 Q So you said you knew which Dettels hired you at Goldman
18 Sachs?

19 A Tim Dettels, his younger brother.

20 Q What was Tim Dettels' connection to Signet?

21 A He was also an investor.

22 Q So you were an investor with this person you had known
23 a long, long time, correct?

24 A That's correct.

25 Q But yesterday you didn't remember that you were the

LEISSNER. CROSS. AGNIFILO

1817

1 chairman?

2 A That's right.

3 Q All right. We're going to look now at defense
4 Exhibit 2396 for identification.

5 This is the firm-wide suitability committee
6 meeting minutes, correct, for Maximus?

7 A Allow me just to read this.

8 Q Take your time.

9 A Yes, sir.

10 MR. AGNIFILO: We offer it, your Honor, as 2396.

11 MR. ROLLE: No objection.

12 THE COURT: It's admitted.

13 (Defendant's Exhibit 2396 in evidence.)

14 Q All right. So this is -- these are the firm-wide
15 suitability committee meeting minutes, correct?

16 A Yes, sir.

17 Q And the date of the meeting is listed as August 14,
18 2012, right?

19 A Correct.

20 Q This relates to Greyhound Project Maximus, right?

21 A That's right.

22 Q So this is the second bond deal that we've been
23 referring to, right?

24 A Yes.

25 Q And just so the jury remembers. This is the

LEISSNER. CROSS. AGNIFILO

1818

1 \$175 billion bond issuance by 1MDB in connection with the
2 Genting power assets, correct?

3 A 1.75 billion.

4 Q I said it wrong. 1.75 billion.

5 Let's go to the second page. I'm not going to
6 make you go through all of the list of people again. Just
7 so to say that now here we are on the second deal, and we
8 don't see Roger Ng's name among the people there in that
9 first list, right? Go to the top so we can get the whole
10 thing.

11 You don't have Roger Ng's name there, right?

12 A That's correct.

13 Q And let's go all the way down. We don't have him
14 anywhere else on that list, right?

15 A That's right.

16 Q We have as the presenters Andre Vella, Tim Leissner,
17 and Cyrus Shey, correct?

18 A That's correct.

19 Q What does it mean to be a presenter at one of these
20 meetings?

21 A That there is a memo prepared. That we are the ones
22 who are there to answer questions by committee. We are the
23 attendings of the deal team.

24 Q What is the role at these specific meetings? What is
25 the role of presenters, what are they supposed to talk

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1 about, what are they supposed to say? How does it work?

2 Just give us a feeling.

3 A It depends very much on the committee meeting itself.

4 The committee may decide that first, the team should present

5 what they're trying to get approved. Or if the committee is

6 comfortable enough with the material, the memo presented

7 beforehand, that they may just jump straight into questions.

8 So it depends a little bit on, you know, how prepared the

9 committee is and what they would like to do. It's up to

10 them. But it would entail a short overview by the team and

11 then Q&A. Or just jumping straight into Q&A.

12 MR. AGNIFIL0: Let's go to 2399, defense exhibit
13 for identification.

14 Q Can you see that there?

15 A Yes, sir.

16 Q It's e-mail correspondence among a number of different
17 people at Goldman Sachs about 1MDB?

18 A Yes, sir.

19 MR. AGNIFIL0: We offer it as 2399.

20 MR. ROLLE: No objection.

21 THE COURT: It's admitted.

22 (Defendant's Exhibit 2399 in evidence.)

23 Q So this is an e-mail from you to the others there,
24 right?

25 A Yes, sir.

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1 Q And the others are Dan Dees. Who is Dan Dees again?

2 A He was the co-head investment bankers in Asia.

3 Q Matthew Westerman, who is that?

4 A His other co-head in investment banking.

5 Q In investment banking?

6 A Yes.

7 Q Richard Campbell-Breeden?

8 A He was head of M&A for Asia.

9 Q And the Andrea Vella?

10 A Correct.

11 Q You write, just wanted to update you regarding the
12 above. As you know, we are executing on the Genting
13 acquisition and financing attached to it. That is on track,
14 albeit we will probably run into September now, given the
15 holidays in Malaysia and the Middle East.

16 Now you would have also seen the news that 1MDB
17 plans a \$2 billion IPO next year of the power of business.
18 I know you've been discussing this potential 1MDB IPO. Is
19 the idea -- tell me if this is right in non-investment
20 banking terms. That there's going to be some sort of
21 consolidation of these power assets, and then they're going
22 to sell them. You know, they're going to offer them for
23 public sale so people can buy stock in them.

24 A Yes. That's correct, yes.

25 Q And you say it might actually be a 3 billion, and I'll

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1 explain this further. To do so, they have a plan to further
2 acquire pour assets including -- is that Sime Darby?

3 A Sime Darby.

4 Q And what's Sime Darby? I don't know that we've talked
5 about that yet.

6 A Sime Darby was a large conglomerate in Malaysia, and it
7 had many different businesses.

8 Q And YTL. What is YTL?

9 A YTL was a company very similar to Genting. It was a
10 large Chinese Malaysian-owned conglomerate.

11 Q You then go on to say we will be the overall M&A
12 advisor on it.

13 Do you see that?

14 A Yes.

15 Q What does that mean? What does it mean to be the M&A
16 advisor on an IPO?

17 A Actually, I don't believe that refers to the IPO. It
18 refers to these assets we're going to acquire --

19 Q I see.

20 A -- prior to the IPO or leading into the IPO. So this
21 was the role that we would advise 1MDB on making not just
22 one acquisitions, but several acquisitions.

23 Q So it's sort of a process with many steps. You acquire
24 all these other assets, right?

25 A That's right.

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1 Q That's kind of the M&A part of it?

2 A That's right, correct.

3 Q And then once you have all these assets, then you do
4 the initial public offering of stock to the public?

5 A That's right.

6 Q Then you go on two lines down. However, I do need your
7 help and support to get the right execution team on this.
8 Do you see that?

9 A Yes, sir.

10 Q And then you mention Dan Swift can plan that role as he
11 now knows the client, right?

12 A Yes.

13 Q And then the next sentence starts this will be huge and
14 they will keep the number of banks very small, with GS being
15 the lead and only structuring advisor, correct?

16 A That's correct.

17 Q So tell me if this is right. This is an e-mail that
18 you're sending to some pretty powerful people within Goldman
19 Sachs, correct?

20 A Yes.

21 Q And what you're basically saying is, there's going to
22 be a lot of work to be done here?

23 A That's right.

24 Q We're going to have acquire all of these power assets,
25 right?

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1 A Yes.

2 Q And then we're going to, kind of, bunch them together
3 and then sell them to the public as part of an IPO?

4 A Yes.

5 Q And you're kind of assembling your team?

6 A That's right. Correct.

7 Q All right.

8 We're going to go to the next exhibit, which is
9 2400. The top there is -- let me make it a little bigger
10 for you. Can you read that okay?

11 A Yes.

12 Q This is between Janet Lane, Jasmine Loo, and yourself,
13 correct?

14 A Yes, sir.

15 MR. AGNIFIL0: We offer as 2400.

16 MR. ROLLE: No objection.

17 THE COURT: It's admitted.

18 (Defendant's Exhibit 2400 in evidence.)

19 Q Let's start with the bottom e-mail. All right. It's
20 from Janet Lane, Jasmine Loo, and she uses the e-mail
21 address Project Dodo bird?

22 A Yes.

23 Q And this is to you and it's dated August 25, 2012,
24 correct?

25 A That's correct.

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1 Q And so I see it says that it's from her to you, but
2 then if we look down it says dear Jasmine, and it's from
3 you. Do you see that?

4 A Yeah. She's drafting an e-mail that I would send to
5 her.

6 Q I see. So before we get to the e-mail, why is she
7 drafting an e-mail that you're going to send to her?

8 A I don't remember the circumstances, why she needed this
9 letter. This e-mail.

10 Q Okay.

11 So what the text of this is, is as spoken, we will
12 await your final advice with respect to his highness
13 chairman of IPIC's correspondence with his excellency PM,
14 Prime Minister. From what I intend internally, the required
15 founders to ensure full subscription of the Magnolia two
16 bonds, to complete Project Greyhound should be in place and
17 are on standby.

18 What is -- so just before we ask what this is, who
19 is this supposed to be coming from?

20 A This is supposed to be coming from me to her.

21 Q What are you saying? What does this mean?

22 MR. ROLLE: Object to the form.

23 THE COURT: You can answer what did you understand
24 her to mean when she sent you that e-mail?

25 A She -- my understanding is that she wanted to get an

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1 e-mail from me, from Goldman Sachs, at Goldman Sachs, to
2 confirm largely the second part of this, which is that
3 Goldman Sachs/our founders are ready to execute a Project
4 Magnolia two or, as we termed it, Maximus.

5 Q Okay.

6 So she wanted that e-mail, but she wanted it
7 coming from you?

8 A Correct.

9 Q Going to 2403 defense for identification. You see that
10 okay?

11 A Yes, sir.

12 Q It's an e-mail traffic between yourself, and Jho Low,
13 and See Lee Lin?

14 A Yes.

15 MR. AGNIFIL0: We offer it as 2403.

16 MR. ROLLE: No objection.

17 THE COURT: It's admitted.

18 (Defendant's Exhibit 2403 received in evidence.)

19 Q Going to, I think it's the first e-mail, the first
20 e-mail in the string. It's on the bottom of page three.
21 All right. It's from See Lee Lin. It's to yourself, and
22 it's copying Jho Low, correct?

23 A Yes, sir.

24 Q It says dear Tim. Jho would like to schedule a dinner
25 meeting with you this coming Thursday.

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1 Do you see that?

2 A Yes, sir.

3 Q Then let's go up to an upper e-mail, it's on the top of
4 the second page. This e-mail were looking at, let's go up
5 and get the from part. It's from See Lee Lin again. It
6 says apologies for the changes. Jho would prefer to meet on
7 Thursday evening given the urgency and importance with your
8 kind self, can we move it back to Thursday evening.

9 Do you see that?

10 A Yes, sir.

11 Q So Mr. Low is pushing you for a meeting about something
12 that Low considers important and time sensitive?

13 A Yes.

14 Q If we go up to the e-mail above that -- I'm sorry, we
15 can go to above that. There we go, all right. Just so you
16 remind us all. 50 Connaught Road was -- was that the
17 Ginwell office? Which office was at 50 Connaught Road?

18 A That was the Ginwell office, sir. He may have housed
19 others of his private companies there too, but I recall it
20 having a Ginwell sign.

21 Q All right. Let's go to 2407.

22 Although, your Honor. It's 1 o'clock, I can
23 certainly stop.

24 THE COURT: We can break here. Members of the
25 jury, please be back at a quarter to two. Remember not to

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1 discuss the case, thank you.

2 (Jury exits.)

3 THE COURT: Can I see the other exhibit to which
4 the government objected? I believe was DX2331. Okay, I'm
5 not sure I know what this is about, but it looks like it's
6 setting up a lunch meeting and the parties are discussing
7 where they will be meeting? What's the objection, Mr.
8 Rolle.

9 MR. ROLLE: Your Honor, the objection was both 401
10 relevance about this Astro meeting that doesn't have
11 anything to do with 1MDB. And then two; if it was to
12 impeach this witness about his relationship with Rohana
13 Rozhan and I think there was a question: Do you recall you
14 started talking to her a lot more. That that would be
15 barred by 608. To use this document to say well, in fact,
16 you were meeting with her.

17 THE COURT: Mr. Agnifilo?

18 MR. AGNIFILO: Judge, the relevance is that Ananda
19 Krishnan is the seller of the power assets in the first
20 meeting. And Mr. Leissner's connections to Ananda Krishnan
21 are very important because it's our premise that part of the
22 way that Tim Leissner got this first bond deal done is
23 through his series of relations with Ananda Krishnan, which
24 involves a relationship with one of Ananda Krishnan's
25 important CEO's, his personal relationship with Ananda

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1 Krishnan, and all of this is part and parcel of how, in our
2 view, Tim Leissner was instrumental. Not just in his
3 capacity as an efficient Goldman Sachs employee, but also
4 having connections, personal connections, with different
5 people that have an influence on Ananda Krishnan. Including
6 Rohana Rozhan, the CEO. And including Krishnan -- his
7 personal relationship with Krishnan.

8 THE COURT: So tell me about this specific
9 document and what's being referred in that.

10 MR. AGNIFILO: Judge, I have to say I think we
11 gave you our only copy, judge. I apologize.

12 THE COURT: It's okay. You can hold onto it
13 counsel. Just explain to me what's going on in the e-mail.

14 MR. AGNIFILO: So what's happening here is there's
15 another IPO of this company, Astro, that Mr. Leissner
16 already discussed. There was the first IPO and now there's
17 a second IPO. He continues his relationship with Rohana
18 Rozhan and Krishnan during the entire period of time. And
19 so the relevance of this is that there's this second IPO
20 about to happen. Leissner starts focusing on Rohzan Rozhan
21 again, who he kind of has -- you know. Sort of in the
22 wings. You know, as needed.

23 So our whole point, our whole premises is is that
24 all of these relationships that Leissner has, none of them
25 are about companionship. They're all strategic. They're

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1 all strategic. These are all the way he closes deals. And
2 that's the argument that I think we're going to be able to
3 make to the jury. And the reason it's relevant is because
4 while he's putting everything on Roger, that Roger has all
5 these connections, Roger knows all of these people, Low is
6 connected to Roger, Jasmine Loo has this connection with
7 Roger, it's actually quite the opposite. And Leissner is
8 the one with these connections.

9 Now these connections come in all different shapes
10 and sizes. Sometimes it's a friendship connection like he
11 has with Krishnan and he goes on his boat and they vacation
12 and they do things like that. Sometimes he uses intimacy.
13 Strategically.

14 THE COURT: I think I understand your theory of
15 the defense. I'm just focusing on this document in
16 particular.

17 MR. AGNIFIL0: So what this is this is just the
18 next stage in his ongoing relationship with Rohana Rozhan
19 and it's utterly irrelevant to us that he's having a
20 romantic relationship with Rohana Rozhan. That's not part
21 and parcel of the defense at all, that's a side show.

22 What is relevant to us is that he's strategic.
23 And he's strategic in every area of his life. And so in
24 this case, he uses this ongoing connection, it's not a
25 momentary thing. And it's already been brought out. I

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1 think the Government brought it on direct examination that
2 he has a relationship with Rohana Rozhan for an extended
3 period of time. We're not the first ones to bring this out.
4 So really, all we're doing is, sort of, putting some meat on
5 the bones of evidence that's somewhat undisputed evidence in
6 this case.

7 But it's important, in my opinion, for the jury to
8 see how he operates, because he's an operator. He's a
9 deal-closer. And for him to put this on Roger and Roger's
10 personal relationships, is going to be rebutted in part by
11 the actual nature of his own personal relationships. And
12 this is part and parcel of his ongoing personal relationship
13 with Rohana Rozhan. And more importantly, how he uses that
14 personal relationship in connection with his ability to
15 close deals. Again, we have no interest. He can have 50
16 girlfriends and 50 wives for all we care. It doesn't
17 matter. The fact is that he does these things strategically
18 to close deals.

19 MR. ROLLE: If I may be heard on an additional
20 point now understanding counsel's argument. I think we just
21 had the clearest distillation of what counsel is offering
22 this for, which is plainly a character trait of Mr.
23 Leissner, which is barred. It's clearly by 404. He cannot
24 prove the character trait of strategic operator, whatever
25 word he wants to use. He cannot prove that under 404(b),

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1 period. He can offer things that go to his credibility.
2 This plainly doesn't. So we would add 400 for our basis for
3 not admitting this or similar evidence.

4 THE COURT: I understand counsel to be offering
5 it for his credibility and his take on this is that Mr.
6 Leissner used his relationship with this individual for
7 purposes of business. And had a connection, separate and
8 apart, from any connection Mr. Ng has to rebut the testimony
9 of Mr. Leissner. That, in fact, it's Mr. Ng who has these
10 specific relationships with these different people in these
11 different businesses. To show his involvement in the crime.

12 MR. ROLLE: So, Judge --

13 THE COURT: It's the defenses theory. That's
14 their defense to the claim here.

15 MR. ROLLE: I understand that that's how he's
16 described that Mr. Leissner has relationships that are
17 different from Mr. Ng. But it doesn't mean this document,
18 which is not -- the fact that Mr. Leissner's relationship,
19 even as to this Astro transaction, the probative value has
20 not been established that this Astro transaction has any
21 bearing. He's not asked the witness a single question, he's
22 not connected up whether this Astro transaction played any
23 role in the 1MDB business or the securing of the business.
24 That may be his theory, but there's been no evidence in this
25 case. Mr. Leissner has a rolodex likely of hundreds of

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1 people. Just that he has relationships that Mr. Ng doesn't
2 have, doesn't mean that that's now probative of any material
3 fact in this case. And I don't believe it goes to his
4 credibility to any point because he hasn't denied that he
5 has these relationships, and he hasn't been asked whether
6 Mr. Ng had these relationships too. He's made clear he's
7 had these relationships.

8 So if it comes to impeach, I don't believe there's
9 anything to impeach him on and I don't believe counsel has
10 elicited at any point the connection between Mr. Leissner's
11 other relationships and this case. He said it, he said it
12 in opening. But he hasn't established any evidentiary basis
13 to find there to be a probative value to talk about Mr.
14 Leissner's other relationships.

15 THE COURT: Mr. Agnifilo?

16 MR. AGNIFILO: Yes, your Honor. It's -- I think
17 that we have the right to develop our theory. I think our
18 theory is especially relevant in light of Mr. Leissner's
19 direct testimony which we vigorously dispute. That it was
20 Mr. Ng who had these critical relationships that moved these
21 deals forward. And the truth is, I did ask him if he was
22 involved in the Astro IPO right after the Magnolia deal
23 closed and he didn't remember.

24 THE COURT: How, if at all, is this related to any
25 of the deals?

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1 MR. AGNIFILO: It's related because the
2 relationship that he had with Rohana Rozhan and with Ananda
3 Krishnan is important in getting the first deal done. Now,
4 Krishnan is still involved because he's buying the bonds.
5 Krishnan doesn't exit stage left just because Magnolia
6 closed. Krishnan -- there's, as your Honor remembers
7 because it was part of the direct testimony, I believe.
8 There's issues after the closing of the deals related to
9 interest payments, you know, with the bond issues. So it's
10 not like the Ananda Krishnan situation is over just because
11 the deal closed. These relationships are still important.
12 I mean, now Ananda Krishnan holds \$650 million worth of
13 Project Magnolia bonds. It is wonderful for Tim Leissner to
14 have the coziest of relationships with Ananda Krishnan.
15 However he can go about doing it. And this is one of the
16 ways he goes about doing it. That's our defense theory,
17 Judge.

18 THE COURT: Can I have a copy of the document.
19 I'm going to break because a need a break. I will review it
20 and I'll come back with my ruling on it.

21 MR. AGNIFILO: So what we intend to do. We knew
22 this three-day break was coming. We're going to get your
23 Honor a letter brief. Because I know that we've said we
24 were going to do that, we've just been tied up with the
25 cross. We'll have this three-day break, well get you

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1 something in a day or so and I think, you know, we can very
2 visit the issue maybe on Monday.

3 THE COURT: Can I have from the court reporter, is
4 it possible for you to just e-mail me the parties arguments
5 on this point?

6 THE REPORTER: Yes.

7 THE COURT: Thank you. And I'll review that over
8 the break.

9 MR. ROLLE: Judge, I'm going to make it very
10 quick, but this it point -- the deal is closed. Magnolia,
11 at the time of this e-mail, is closed. Mr. Agnifilo is
12 bringing up coupon payments that affect bond holders in
13 2014. This e-mail has nothing to do with that, and his
14 question to the witness I think makes clear why he wants
15 this document. It's about Rohana Rozhan. So I just want to
16 note that for the record.

17 THE COURT: Noted for the record.

18 So with regard to the juror that I mentioned. The
19 juror had a number of doctors' appointments. She
20 rescheduled them to the week of March 28th based on our
21 representation that the trial would take 5 to 6 weeks. So
22 her question is what should she do. There is one particular
23 appointment on the 31st that she cannot change at all. As
24 to the others , she needs to know sooner rather than later
25 whether she should go ahead and reschedule. I'm unclear as

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1 to where we are in this trial and how long the parties
2 expect this case to last. How much longer does the
3 Government expect its direct case to last?

4 MS. SMITH: Your Honor, Mr. Agnifilo said today
5 that he may go on cross until next Wednesday.

6 MR. AGNIFILO: I think that might be on the
7 outside. Just so it's clear. I spoke to the Government
8 today because I don't want them to be without a witness and
9 I think your Honor doesn't either.

10 I think by the end of today, I think I'll have a
11 clear idea of when the cross will end, and I will absolutely
12 share that with the government. We already started those
13 discussions.

14 THE COURT: Okay.

15 MR. AGNIFILO: So it could be Tuesday, it could be
16 Wednesday on the outside. On the outside. So that's my
17 estimation, judge.

18 THE COURT: And how much longer do you believe you
19 need with regard to all your other witnesses.

20 MS. SMITH: Your Honor, we still have a number of
21 stipulations outstanding. We need to have additional
22 discussions with defense counsel because we are going to try
23 to streamline our case. That said, I think that another two
24 and a half weeks is probably right. We have about 20 to 25
25 witnesses, possibly more, depending on stipulations. And

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1 where none of them are anywhere as close to the length of
2 Mr. Leissner, obviously that's a lot of people just to get
3 on and off. It will depend on the crosses of those
4 witnesses. You know, the government is amenable to asking
5 the jury if they're interested in sitting on Friday, any day
6 including a potential half day. I recognize the Court may
7 have other things scheduled and that may not be possible.

8 THE COURT: I've been pushing my schedules to
9 Friday.

10 MS. SMITH: I understand. So we're also willing
11 to discuss with the jury if they're interested to sit longer
12 in a particular day. And like I said, we are going to try
13 and to streamline as much as possible, but some of it will
14 just depend on stipulations.

15 THE COURT: Okay. So this is now March 3rd. You
16 anticipate at least two and a half, three weeks that will
17 put us to where, Winnie?

18 MS. SMITH: From the end of Mr. Leissner, two and
19 a half weeks.

20 THE COURT: The week of March 28th. And then we
21 have cross. I'm sorry, the defense's case in addition. So
22 I am going to tell the jury that it's likely, and I'll say
23 this to the entire jury. At this stage, it's likely that
24 the trial will continue through the end of March into the
25 first week of April.

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1 MR. AGNIFIL0: That's fine, Judge.

2 MS. SMITH: I think that's fine. And obviously it
3 would be better to do that and be shorter.

4 THE COURT: Yes. I'm going to push the parties to
5 try to streamline the case so that we can get it done sooner
6 rather than later. As for this particular juror, she is one
7 of the alternates who has to have this appointment on the
8 31st, I'm not going to ask her to reschedule it. She's made
9 it clear that she had to wait six months for this
10 appointment. So if we're still sitting at that point, we're
11 going to take the day off so that that juror can attend that
12 procedure.

13 MS SMITH: Thank you, your Honor.

14 MR. AGNIFIL0: Understood, your Honor. Thank you.

15 THE COURT: All right. I'll see the parties at a
16 quarter to.

17 (Continued on next page.)

18

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AFTERNOON SESSION

(In open court.)

(Parties present.)

THE COURT: Please be seated.

6 So when we're done today, I will hear
7 additional -- I did not get a chance to get the transcript
8 from the court reporter, so I haven't made any ruling on
9 this. And I want to give the parties an opportunity to make
10 a more detailed record so I can rule because I assume this is
11 going to come up with a few others.

Mr. Agnifilo.

13 MR. AGNIFIL0: So what we propose, your Honor, is
14 that -- I understand the Court's ruling. What we're going to
15 do is we're going to get your Honor a letter brief probably
16 tomorrow.

17 THE COURT: I haven't ruled on this document is
18 what I'm saying.

19 MR. AGNIFIL0: I know. We can save it. We can
20 save it. We can get to it on Monday. I'm very happy to just
21 kind keep it in abeyance and deal with the area as an area
22 rather than piecemeal.

23 THE COURT: Okay. But I need to get a better
24 understanding as to this particular document because it'll
25 probably inform my decision generally as to all the other

1 similarly situated documents. The Government is making a
2 relevance argument as I understand it and also §403.

3 MR. ROLLE: Yes, Judge. I think it's §401, and
4 §401 mainly because--

5 THE COURT: Relevance.

6 MR. ROLLE: -- the relevance isn't clear to us.

7 §403. But I would say §404 as we articulated and
8 §608. §404 if being offered to prove a character trait of
9 the witness you can't do that.

10 THE COURT: So I'll just hear from the parties
11 further so I will be better able to rule on this.

12 MR. AGNIFIL0: That's fine, Judge.

13 THE COURT: Let's bring in the jury.

14 (Witness takes the witness stand.)

15 (Jury enters courtroom at 1:56 p.m.)

16 THE COURT: Please be seated, everyone.

17 I hope you all enjoyed your lunch today. Great.

18 Mr. Agnifilo.

19 MR. AGNIFIL0: Thank you, your Honor.

20 EXAMINATION BY

21 MR. AGNIFIL0:

22 (Continuing.)

23 Q Good afternoon, Mr. Leissner.

24 A Good afternoon.

25 Q We've talked a little bit about someone Mohamed

T. Leissner - Cross/Mr. Agnifilo

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1 A1 Badawy?

2 A Yes, sir.

3 Q And he's with Aabar, correct?

4 A He was the CEO of Aabar, correct.

5 Q How many times have you seen him?

6 How many times have you had meetings with him?

7 Been physically in his presence?

8 A I can't tell you the exact number but it's more than
9 ten.

10 Q Okay. And what locations?

11 A The Middle East, in Kuala Lumpur. I don't know if I
12 actually saw him in New York, I may have. But definitely in
13 the Middle East as well as in Kuala Lumpur.

14 Q I'm going to show what you has been marked in evidence.

15 It's Government Exhibit 1353-A, Page 38.

16 THE COURT: You said it's in evidence.

17 MR. AGNIFIL0: I think we put the whole set in,
18 Judge.

19 THE COURT: Okay.

20 MR. AGNIFIL0: I'm going to wait until that pulls
21 up.

22 THE COURT: 1351 is in.

23 MR. AGNIFIL0: I think what the Government and I
24 discussed was these receipts and the TEEMS reports and all
25 that stuff are going to come in.

T. Leissner - Cross/Mr. Agnifilo

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1 MR. ROLLE: No objection.

2 THE COURT: Okay. Give me the exhibit number so I
3 have everything.

4 MR. AGNIFILO: Yes, Judge. It's Government Exhibit
5 GX-1353A, Page 38.

6 THE COURT: So are we moving in the entire Document
7 1353-A.

8 MR. AGNIFILO: I'm happy to put in the entire
9 Document 1353-A, Judge.

10 THE COURT: Is there any objection to that?

11 MR. ROLLE: No, Your Honor.

12 THE COURT: So I am admitting 1353-A in its
13 entirety.

14 MR. AGNIFILO: Very good.

15 (Defendant's Exhibit 1353-A was marked in evidence
16 as of this date.)

17 EXAMINATION BY

18 MR. AGNIFILO:

19 (Continuing.)

20 Q So this is one your receipts, is it not?

21 A Yes, sir.

22 Q And that's your handwriting on it?

23 A Yes.

24 Q And that is -- TL is you?

25 A Right.

T. Leissner - Cross/Mr. Agnifilo

1842

1 Q And to says "Mohamed Badawy" and under it to says
2 "Aabar"?

3 A That's right.

4 Q And the two of are you here in London?

5 A Maybe so, yes.

6 Q So would you have gone, would you have met him in
7 London?

8 A Yes, possibly.

9 Q When I asked you if you remembered, you didn't remember
10 London?

11 A London I don't recall per se, no.

12 Q And Low has an apartment in London, right?

13 A Yes.

14 Q Did you, he, and Low meet in London?

15 A Not that I remember, sir.

16 Q Okay. So do you have a recollection of meeting Mohamed
17 Badawy from Aabar in London on April 1, 2012?

18 A No, sir, not particularly.

19 Q You don't have any recollection at all?

20 A Correct.

21 Q Do you have a recollection of meeting him in London any
22 time, not just this day, but any day?

23 A As I expressed at the beginning of your questioning, I
24 remember seeing him on many occasions more than ten times.

25 And it was -- the ones that I remember specifically were in

T. Leissner - Cross/Mr. Agnifilo

1843

1 Abu Dhabi and in Kuala Lumpur. I very well have met him here
2 in London and New York as well. I just don't remember those
3 specific meets.

4 Q So I want to focus you on this meeting in London.

5 A Yes.

6 Q April 1st, right? That's the date; right?

7 A Yes.

8 Q And this is the Mandarin Oriental in London?

9 A Yes.

10 Q You've been there, right?

11 A Yes.

12 Q How many times would you say you've been to the
13 Mandarin Oriental in London?

14 A I can't tell you many times as well.

15 Q Who have you been there with?

16 A I mean, many different people. Roger, I had been there
17 about Roger. I would been there Rohana. I have been there
18 with many different people. Steve Dattels. Many, many
19 different people.

20 Q Do you have a specific recollection of being at the
21 Mandarin Oriental with Mohamed from Aabar?

22 A No, I don't remember this meeting, sir.

23 Q And let me show you what has been already admitted as
24 GX-1364A, 20. Let's start on the right side of that top
25 exhibit. All right.

T. Leissner - Cross/Mr. Agnifilo

1844

1 Again, that's your handwriting?

2 A Yes, sir.

3 Q Mohamed Al Badawy, that's the guy we're talking about.

4 From Aabar, right?

5 A Yes.

6 Q The TL refers to you, right?

7 A Yes.

8 Q All right. That Fortnum & Mason?

9 A Yes.

10 Q Piccadilly in London?

11 A Yes.

12 Q There's another meeting with you and Mohamed from Aabar
13 in London?

14 A Yes, very possibly so.

15 Q July 27, 2012?

16 A Yes.

17 Q Do you remember being at Fortnum & Mason with Mohamed
18 Al Badawy on July 27, 2012?

19 A Not particularly, but this is -- you remember this is
20 now the phase of Maximus. So this may well be in relation to
21 Maximus. I just don't remember it.

22 Q You described on direct examination tremendous detail
23 about Low's apartment?

24 THE COURT: Mr. Agnifilo, I'm just going to stop
25 you for a second.

T. Leissner - Cross/Mr. Agnifilo

1845

1 MR. AGNIFIL0: Yes.

2 THE COURT: Can you give me the exhibit number?

3 MR. AGNIFIL0: Sure, of course. It's Government
4 Exhibit 1364-A at Page 20.

5 THE COURT: It's unclear to me that it was admitted
6 but I assume there's no objection.

7 MR. ROLLE: It's not been admitted yet.

8 THE COURT: Okay. So because and the Government
9 has no objection, correct?

10 MR. ROLLE: No, Your Honor.

11 THE COURT: So I am going to admit this document.

12 MR. AGNIFIL0: Yes, Judge.

13 THE COURT: Mr. Agnifilo, yes, I have no record of
14 it on my --

15 MR. AGNIFIL0: Thank you very much.

16 (Government's Exhibit 1364-A was received in
17 evidence as of this date.)

18 THE COURT: You may proceed.

19 MR. AGNIFIL0: Thank you.

20 EXAMINATION BY

21 MR. AGNIFIL0:

22 (Continuing.)

23 Q So this receipt from July 27, 2012, a location in
24 Piccadilly in London.

25 A Right.

T. Leissner - Cross/Mr. Agnifilo

1846

1 Q And what I just asked you is you testified on direct
2 examination about Low's apartment in London?

3 A Correct.

4 Q Are you aware that this location is less than a fifth of
5 a mile from One Stratton Street in London?

6 A I know that's very close yes, sir.

7 Q So my question is, did you meet with Mohamed Al Badawy
8 on July 27, 2012, in conjunction with a meeting with Jho Low?

9 A I don't remember this meeting in conjunction with Jho,
10 no, I don't.

11 Q Do you remember anything about this meeting at all?

12 A No, sir. As I explained just now, we were -- this is
13 now in, and again, a very intense phase around Project
14 Maximus. We had many meetings around the world and I don't
15 recall this particular meeting. We had meetings with Aabar,
16 we had meetings with IPIC, we had meetings with all the
17 participants again on this project.

18 Q I'm sorry.

19 A I was finishing. So, therefore, I can't remember the
20 specific meeting. I remember meeting with Mohamed on many
21 occasions, I just can't put my finger on this particular one.

22 Q And do you think that there are any other meetings
23 between you and Mohamed in London?

24 A It may well be the case, sir. If you remind me of a
25 meeting that's particular in my memory, I will tell you.

T. Leissner - Cross/Mr. Agnifilo

1847

1 This one I can't remember.

2 Q Okay. Let's go to Government Exhibit 1367-A, Page 25.

3 MR. AGNIFILo: We'll offer it for the moment just
4 for identification.

5 Q Do you see that okay?

6 A Yes, sir.

7 Q And, again, that's Mohamed Al Badawy from Aabar, right?

8 A Yes.

9 Q TL is you, right?

10 A Yes, sir.

11 Q And this is again at the Mandarin Oriental?

12 A Yes.

13 Q In Knightsbridge in London?

14 A Yes.

15 MR. AGNIFILo: We offer it.

16 MR. ROLLE: No objection to offering it.

17 THE COURT: It's admitted.

18 (Government Exhibit 1367-A was marked in evidence
19 as of this date.)

20 Q So let's look at this one for a second. This is
21 September 2, 2012.

22 What's going on in September of 2012?

23 A I think we're still we're now at the final stretches of
24 Project Maximus.

25 Q Okay.

T. Leissner - Cross/Mr. Agnifilo

1848

1 A As I recall it.

2 Q And you're going to Abu Dhabi on a regular basis for
3 Project Maximus, right?

4 A Yes, sir.

5 Q Just like you did for Project Magnolia, right?

6 A That's correct.

7 Q Okay. And you're seeing Mohamed from Aabar when you go
8 to Abu Dhabi, right? Not every time.

9 A Not every time, yeah, that's right.

10 Q So that's one of the people you go there to see?

11 A Correct.

12 Q So my question is; why are you meeting him in London
13 during the closing phases of Project Maximus? Why in London?

14 A I would typically meet him wherever he was, it wasn't my
15 choice. I would fly to him rather than the other way around.
16 So he must be in London at this time, that's why I'm going to
17 see him there.

18 Q So we have just -- you have just seen three different
19 receipts, each of which have your handwriting on them;
20 correct?

21 A That's right.

22 Q Each of which in your own handwriting indicates that you
23 are having a meeting, a meal, with Mohamed from Aabar; right?

24 A Yes, sir.

25 Q And before you saw these receipts, you didn't ever say

T. Leissner - Cross/Mr. Agnifilo

1849

1 that you met him this London; right?

2 A But, sir, I had explained that I had many different
3 meetings. London I particularly mentioned.

4 Q You didn't mention it?

5 A Right.

6 Q So let's go one by one. April 1, 2012. What's going on
7 April 1, 2012?

8 A Project Magnolia.

9 Q Okay. Project Magnolia right in the thick of it, right?

10 A That's right.

11 Q And you meet with Mohamed from Aabar in London in
12 April 2012?

13 A Yes.

14 Q When you spoke to the jury, you testified to this jury
15 in direct examination, did you mention meeting Mohamed from
16 Aabar in London during Project Magnolia?

17 A I believe not, sir. I don't think that was one of the
18 questions I was asked.

19 Q You talked about one London meeting. One London meeting
20 during Project Magnolia, right?

21 A There was a really significant important meeting where
22 the scheme was described for the first time, yes, sir.

23 Q You talk about one. You didn't talk about meeting
24 Mohamed from Aabar in London during the first bond deal, did
25 you?

T. Leissner - Cross/Mr. Agnifilo

1850

1 A Just like I didn't mention many other meetings I had
2 with him in Abu Dhabi or other places. So I did not mention
3 these other London meetings which I don't remember, sir. You
4 are asking me these questions for the first time, I don't
5 remember these meetings.

6 Q There's nothing you can tell us about what you and
7 Mohamed from Aabar discussed or met about on April 1, 2012,
8 in London.

9 Can you tell us the first thing about that meeting?

10 A At that time, the only discussion I had with Aabar or
11 Mohamed was regarding Project Magnolia; and so, any
12 discussion we had was around that. We were, as you described
13 it, in the midst of this execution -- the execution of this
14 transaction which by far exceeded the importance of any other
15 transaction at that time. So, yes, that is the only
16 discussion we would have.

17 Q So you're telling us that you had a discussion with a
18 key person in this bond deal, correct?

19 A Correct.

20 Q All right.

21 MR. ROLLE: Can we have a timeframe, Judge?

22 MR. AGNIFIL0: April 1, 2012.

23 Q Right? For the moment, I'm just talking about the
24 April 1, 2012, meeting between you and Mohamed from Aabar in
25 London?

T. Leissner - Cross/Mr. Agnifilo

1851

1 A Okay, sir.

2 Q Okay. Mohamed is a very significant person in
3 connection with the first bond deal, right?

4 A That's correct.

5 Q You told us Mohamed's the one that drove you to
6 Qubaishi's house, right?

7 A Right.

8 Q You didn't remember anything about his car but you're
9 telling us he did that, right?

10 A Yes, sir.

11 Q Okay. You had a lot of dealings with Mohamed from
12 Aabar, correct?

13 A That's correct.

14 Q And during this time period, you're having discussions
15 with him about Project Magnolia, right?

16 A That's correct.

17 Q And now, we're seeing that you met him in London on
18 April 1, 2012, right?

19 A Yes.

20 Q And is there any measure of detail that you can give us
21 about what you and he talked about? Not generally. Not I
22 must have said.

23 Do you have any form of recollection about what you
24 and he discussed at the Mandarin Oriental on April 1, 2012,
25 in London?

T. Leissner - Cross/Mr. Agnifilo

1852

1 A Not in the specifics, no.

2 Q All right. Let's go to the next one. That's 1364-A,
3 20. Just pull that up. All right. Here we are.

4 Can we make that center portion a little bigger?

5 Okay.

6 Not only do we have a date on that receipt of July
7 27, 2012, we have a time, 11:18:48.

8 Do you see that?

9 A Yes, sir.

10 Q Do you remember having a late breakfast or maybe
11 brunchy time meeting with Mohamed from Aabar at
12 Fortnum & Mason in London on this day?

13 A Not in particular terms like that, no, sir.

14 Q Is there anything at all you can tell us about what you
15 discussed at that meeting?

16 A Yes, sir. During this time, we are now in the midst of
17 Project Maximus and, therefore, we're discussing the various
18 elements of it. In particular, for him, it was the call
19 options he was receiving on the Genting business. He was,
20 again, in charge of effectively rallying the troops in
21 Abu Dhabi for the second bond deal. So those two topics were
22 the most important topics I discussed with Mohamed during
23 Project Maximus.

24 Q So I'm not asking you to put this together. I'm asking
25 if you have a specific recollection of what you and he

T. Leissner - Cross/Mr. Agnifilo

1853

1 discussed on this particular day, in this particular place,
2 in London.

3 Do you have a memory?

4 A No. The only memory I can give you is the one I just
5 gave you.

6 Q And you have a specific recollection of that?

7 A Not particularly to this date, but that's the
8 discussions I was having with Mohamed during the time of
9 Project Maximus and certainly in the middle of Project
10 Maximus.

11 Q And do you recall what it is that caused you to fly to
12 London to meet with him on that date?

13 A Yes, sir. This transaction was going to be our second
14 \$200 million transaction for Goldman Sachs. So, yes, I would
15 have flown to the North Pole, to be quite honest, to meet
16 with him and to make this happen. So these were really
17 important meetings, all of them. That's why, yes, it was my
18 job to make sure I went to the people that were important to
19 this. I had to go and be there. They wouldn't come to me, I
20 had to go to them.

21 Q You are based in Asia, right?

22 A Correct.

23 Q He is based in Abu Dhabi?

24 A Correct.

25 Q You're meeting in London?

T. Leissner - Cross/Mr. Agnifilo

1854

1 A Yes.

2 Q And my question is why?

3 A Because that was where he was. Yes, I would fly to
4 them. I would fly to him. Khadem, Jasmine, any of the
5 people involved in this. They wouldn't come to me, sir, I
6 would have to go to them. That was the job of a banker.

7 Q So my question is for this particular meeting, I'm just
8 talking about this one for now, July 27, 2012.

9 Was Low there?

10 A No, sir, not in any meeting like that, no. I never met
11 Jho at any of these locations outside of his house in London.

12 Q And so, what you're telling us is that you came from
13 Asia, Mohamed came from Abu Dhabi, and you met less than a
14 fifth of a mile from Low's apartment and Low wasn't there?

15 A Sir, again, I don't remember the specific trip nor the
16 specific meeting. The meeting, I would never -- one thing I
17 do remember is, I never met Jho in London outside of his
18 house or the dinner he went -- he took us to, Roger and me
19 to, after that meeting but I never met him at Fortnum & Mason
20 nor the Mandarin Oriental.

21 Q Let's go to the September 2, 2012. That's GX-1367A at
22 Page 25.

23 The date here is September 2, 2012, right?

24 A Correct.

25 Q As I think you said earlier, you're in the tail end of

T. Leissner - Cross/Mr. Agnifilo

1855

1 Project Maximus, correct?

2 A Correct.

3 Q And you're meeting Mohamed from Aabar again at the
4 Mandarin Oriental, right?

5 A Correct.

6 Q And you're saying you never met Low at the
7 Mandarin Oriental in London, never?

8 A Yes.

9 Q Not one time?

10 A Not to my recollection at all, sir.

11 Q And you never met Low at Fortnum & Mason in London not
12 one time?

13 A Yes. Not to my recollection, sir.

14 Q Now, do you recall talking just now for the moment about
15 the September 2, 2012, meeting between you and Mohamed. You
16 went to the UAE six days later on September 9, 2012, right?

17 A I can't recall the specific date, sir.

18 Q Do you recall having any discussions with Mohamed prior
19 to you flying from Asia and him flying from Abu Dhabi for the
20 two of you to meet in London without Low in setting up these
21 meetings.

22 Did you talk to him on the phone? Did you send him
23 a text? Did you send him an e-mail? How did you set these
24 meetings up?

25 A Yes. At times, we communicated directly. At other

T. Leissner - Cross/Mr. Agnifilo

1856

1 times, either Jho or Jasmine helped to set up the meeting.
2 For this particular one, I don't remember how I set that up.

3 And by the way, I do think it's a
4 mischaracterization to say that he flew all the way from
5 Abu Dhabi. He may have been in London already at that time,
6 I just wouldn't know. Again, I went to where ever he was
7 situated at the time that I needed to meet him.

8 Q To your knowledge, did he have an apartment in London?

9 A Not that I know of, sir.

10 Q And when you would meet him on these three occasions,
11 did he ever tell you what hotel he was staying in?

12 A Sir, not that I remember. No.

13 Q And when you met him on these three occasions, did he
14 tell you what he was doing in London?

15 A I can't tell you that I remember what he told me. Of
16 course, when you sit down and have a discussion, even if it's
17 very much deal related, you do exchange pleasantries and you
18 do exchange, you know, what are you doing? how are you
19 doing? What are you doing? so he may have told me but not
20 to my recollection at this time.

21 Q Did he tell you if he was seeing Low in London?

22 A You're asking me something that I can't answer to you
23 because if he was meeting Jho, he would have told me. But I
24 can't remember if he told me that. What I do remember,
25 again, is in those time frames and those dates that you're

T. Leissner - Cross/Mr. Agnifilo

1857

1 suggesting, we had very specific discussions on the projects
2 that we were working on. That was my main goal with Mohamed
3 to move those forward. He may have well met Jho during this
4 time, I could not confirm or deny that to you.

5 Q Now that you have looked at these three receipts, is it
6 your recollection that you meet Mohamed from Aabar in London
7 three times?

8 MR. ROLLE: Objection, asked and answered.

9 THE COURT: Sustained.

10 Q I'm just trying to clarify. At this point not five
11 minutes ago, not 20 minutes ago, if you have a recollection
12 one way or the other?

13 MR. ROLLE: Objection.

14 THE COURT: Sustained.

15 Q All right. We're going to go to 2407. Defense Exhibit
16 2407 for identification.

17 It's an e-mail between you and Nick Kamil?

18 A Yes.

19 MR. AGNIFIL0: Your Honor, we offer as 2407.

20 MR. ROLLE: No objection.

21 THE COURT: It's admitted.

22 (Defendant's Exhibit 2407 was marked in evidence as
23 of this date.)

24 Q Who is Nick Kamil?

25 A I don't know, sir.

T. Leissner - Cross/Mr. Agnifilo

1858

1 Q You don't know?

2 A The only Nick I know is Nick Faisal.

3 Q You think this is Jho Low?

4 A I don't know, sir.

5 Q So this person who you don't know says to you, Pursuant
6 to our meeting in London, I would be grateful for your
7 evaluation and structuring thoughts on Vale with a view
8 toward a potential acquisition?

9 A Yes.

10 Q You're telling us you know don't know who that is?

11 A Well, yes, sir, I see the Strategic Resources Company.
12 And so, yes, I can surmise it may be Nick Faisal, but I don't
13 know Kamil. So it may be Nick Faisal.

14 Q Nick Faisal is who again?

15 A The CEO of the SRC.

16 Q And the SRC just because we haven't discussed it all
17 that much. The SCR is a Malaysian government entity,
18 correct?

19 A It was a subsidiary of 1MDB.

20 Q Very good. All right. We're going to go forward.
21 We're going to go to 2408 for identification.

22 Looking at the first page there, this is e-mail
23 traffic between yourself and others from Goldman Sachs?

24 A Yes, sir.

25 MR. AGNIFILO: We offer it as 2408, your Honor.

T. Leissner - Cross/Mr. Agnifilo

1859

1 MR. ROLLE: No objection.

2 THE COURT: It's admitted.

3 (Defendant's Exhibit 2408 was marked in evidence as
4 of this date.)

5 Q Let's go to the last e-mail here. I meant the first.
6 The last on the page. The last of the list.

7 So you're not on this chain yet, you join it later.
8 This is from Dan Swift, right?

9 A Yes.

10 Q And it says it's it Adrian Seow, Alvin Adisusanto, Andy
11 Tai, Cyrus Shey, Sherry Er.

12 "Gents, will you be able to circulate the revised
13 warrant analysis tonight or tomorrow morning. Tim is flying
14 to AD, Abu Dhabi, tomorrow night and will need to take that
15 with him for discussions with IPIC.

16 Do you see that?

17 A Yes, sir.

18 Q "And we need to send to Eugene as well." What's going
19 on here?

20 A Dan is talking to the investment banking team to provide
21 me an analysis for meetings or for my trip to Abu Dhabi.

22 Q All right. We're going to go a few e-mails up on the
23 first page, the bottom of the first page. It's the one from
24 Andy Tai. There you go.

25 Andy Tai is on the deal team, right?

T. Leissner - Cross/Mr. Agnifilo

1860

1 A Yes, sir.

2 Q Okay. And it says: Tim, the spaniel and Turin analysis
3 includes new power plants versus standalone greyhound.

4 What is he talking about there? What's spaniel and
5 Turin analysis?

6 A Turin was the acquisition of the Tanjong assets.

7 Spaniel may be it was a reference to Siam Dhabi's power
8 assets but I can't be sure right now.

9 Q We're not seeing Roger on any of these e-mails, are we?

10 A No, sir. These are very much investment banking
11 analysis discussions.

12 Q Okay.

13 A Meaning, you know, and M&A-related discussions.

14 Q We're going to go to 2409 for identification. Do you
15 see that, okay?

16 A Yes, sir.

17 Q All right. This is e-mail traffic between you and
18 someone named Cyrus Behbehani?

19 A Yes, sir.

20 MR. AGNIFIL0: Your Honor, we offer it.

21 MR. ROLLE: No objection.

22 THE COURT: It's admitted.

23 (Defendant's Exhibit 2409 was marked in evidence as
24 of this date.)

25 A (Reading). Yes, sir.

T. Leissner - Cross/Mr. Agnifilo

1861

1 Q These are e-mails from September of 2012, right?

2 A Yes.

3 Q So these e-mails are from long after the Magnolia deal
4 is done?

5 A Yes, sir. I believe you asked me about this meeting
6 yesterday.

7 Q But now I'm asking about the e-mail.

8 A Okay.

9 Q So let's look at the bottom e-mail from Cyrus to you.
10 It says, Good to meet you in London. Let me know when is a
11 good time to speak regarding progress on Japan front and next
12 steps in cooperation. Best, Cyrus.

13 Right?

14 A Yes, sir.

15 Q Now, you met Cyrus Behbehani in London or around
16 September of 2012, right?

17 A Yes, I don't remember the time but I do remember it was
18 around the time of Project Maximus.

19 Q And the above e-mail, the one that you send to him is:
20 Hi, Cyrus. Yes, it was great to meet you, too. Can
21 definitely speak tomorrow. Let me know what time is good for
22 you, right?

23 A Yes.

24 Q You're saying that you met him at Low's apartment?

25 A Yes, I did.

T. Leissner - Cross/Mr. Agnifilo

1862

1 Q All right. And tell us about that meeting?

2 A I remember that Morgan Stanley and Cyrus, in particular,
3 was very keen to joint in the 1MDB transactions. As I recall
4 it, he wanted to be part of the financing around the time of
5 Project Maximus. But any and all other financings as well.

6 He claimed that he had very good contacts in the
7 Middle East, in particular, in Abu Dhabi and that he could
8 bring those to the table if required. And he was very
9 insistent that he could be as aggressive as Goldman Sachs
10 could be in terms of pricing and balance sheet usage and
11 stuff like that.

12 Q So let's go back for a second to GX-1367A at Page 25.

13 Okay.

14 So we know you were in London on September 2, 2012,
15 because we have this receipt from when you were at the
16 Mandarin Oriental with Mohamed Al Badawy, right?

17 A Yes, sir.

18 Q Okay. And is that the same trip that you met Cyrus
19 Behbehani?

20 A I don't believe so, sir. Given the fact that his e-mail
21 was dated afterwards and there was a nine-day gap I don't
22 think so. I can't be sure, sir, because I don't remember the
23 exact circumstances of this trip, but I'm pretty certain that
24 Cyrus would have sent me an e-mail very quickly because he
25 was very keen on getting involved in 1MDB business.

T. Leissner - Cross/Mr. Agnifilo

1863

1 Q Do you think that you were in London two separate times
2 between September 2, 2012, and September 11, 2012?

3 A Sir, you will recall I took about 250 flights that year.
4 I may have returned to London on short notice. I don't know,
5 I can't tell.

6 Q When I asked you, you said you didn't think it was the
7 same trip. You think it was different trips?

8 A I surmised that, sir, because Cyrus would have followed
9 up with me very quickly after meeting me and his e-mail was
10 dated the 11th.

11 Q All right. So let's talk about this early September
12 trip to London, okay?

13 A Sure.

14 Q Right. Tell me what you remember about going -- so it's
15 in the middle of Maximus, the tail end of Maximus, I should
16 say; right?

17 A Yes.

18 Q Tell us what you remember about your early
19 September 2012 trip to London because we have you on
20 September 2nd with Mohamed from Aabar at the
21 Mandarin Oriental, right?

22 Let me just finish.

23 And then we have Cyrus Behbehani sending you an
24 e-mail on September 11th saying, Good to meet you in London.

25 Tell us what you remember about your early

T. Leissner - Cross/Mr. Agnifilo

1864

1 September 2012 trip to London?

2 A I believe I've answered this question several times, but
3 if you'd like me to answer it again: I don't remember what
4 this discussion was about. We are in the middle of executing
5 Maximus. There are daily meetings, several daily meetings on
6 this topic with our client, with the people involved in the
7 transaction.

8 So I cannot specifically tell you anything about
9 this particular meeting other than the fact we were
10 discussing with Aabar two major things. One is coordinating
11 all the efforts to get Maximus finalized and done. And
12 secondly, his warrants and his, you know, like what you saw
13 in the e-mail before is the warrant analysis, you know, how
14 much he would get, what valuation he might be getting so it
15 details around the Aabar piece of the structure.

16 Q And which was first, your meeting with Mohamed or your
17 meeting with Cyrus?

18 MR. ROLLE: Objection.

19 THE COURT: Rephrase the question, Counsel.

20 The witness has testified he doesn't recall this
21 meeting on September 2nd.

22 Q And tell me about the Cyrus meeting. The meeting with
23 Cyrus. Why was he there? Who else was there?

24 A I think, again, I just summarized what I remember of it.
25 It was at Jho's place. Jho was there. I don't recall other

T. Leissner - Cross/Mr. Agnifilo

1865

1 people there. Cyrus was pitching hard to Jho and he was
2 pitching to me a joint mandate with Goldman Sachs to Jho. He
3 was pitching that he knew people in Abu Dhabi very well; that
4 he could help, and that he wanted longstanding to be
5 involved. To me, he was saying, look, we can do this
6 jointly. We could do these bond transactions together.

7 Q And was it anyone in addition to you and Low and Cyrus?

8 A I just mentioned: I don't recall anybody else being
9 there.

10 Q One of the things that he was -- let's go back to the
11 e-mail already in evidence, 2409.

12 All right. So what Cyrus says to you in that
13 bottom e-mail is: Let me know when is a good time to speak
14 re: Progress on Japan front and next steps cooperation.
15 Best, Cyrus.

16 A Yes.

17 Q What do you understand him to be saying to you when he
18 says, Let's speak regarding progress on Japan front?

19 A I can't remember if we were already contemplating a
20 potential JPIC transaction down the record. We were going to
21 do that at some point. That's only reference I can think of
22 in this context. Next steps cooperation I think was
23 referencing all financing which included at that time Project
24 Maximus potentially.

25 The Japan front, you know, reference I think I can

T. Leissner - Cross/Mr. Agnifilo

1866

1 only put that in the context of perhaps a JPIC discussion.

2 MR. AGNIFIL0: We're going to go to defense, I'm
3 sorry, it's a Government Exhibit 1882. I'm not sure it's
4 been admitted yet. It's Government Exhibit 1882. I don't
5 believe it has been admitted. So we'll offer it, Judge, as
6 Government Exhibit 1882.

7 THE COURT: Okay.

8 MR. AGNIFIL0: We'll show it to the witness for
9 identification and then I'll ask him.

10 (Continued on the next page.)

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Leissner - cross - Agnifilo

1867

1 CROSS EXAMINATION

2 BY MR. AGNIFILO: (Continuing)

3 Q This is an e-mail between Nik Faisal and yourself;
4 correct?

5 A Yes, sir.

6 MR. AGNIFILO: We offer it, Judge.

7 MR. ROLLE: First, objection to the form of the
8 question, but no objection to the document coming in.

9 THE COURT: It's admitted.

10 (Government Exhibit 1882 received in evidence.)

11 Q So this is an e-mail with an attachment; correct?

12 And I'm going to show you the attachment.

13 In the meantime, I am going to show you something
14 that was an attachment to the exhibit that was admitted. So
15 take a look at that and then I have a question for you.

16 A Yes, sir.

17 Q So the question I asked you is that this is an e-mail
18 ostensibly, from what it says, to be Nik Faisal; right?

19 A Yes, sir.

20 Q Did you have an understanding if that was Nik Faisal or
21 if that was Jho Low?

22 A I think I've already testified that I believed Jho Low
23 was using Nik's e-mail at times too.

24 Q But specifically not at times. I'm really asking about
25 just this one specific e-mail.

Leissner - cross - Agnifilo

1868

1 Do you believe -- because you're getting it, do you
2 believe this is coming from Nik Faisal or from Jho Low?

3 A It's my belief it was from Jho Low.

4 Q Very good. All right. I just want to give you -- I'll
5 put it up. Thank you.

6 MR. AGNIFILO: Okay. This is in evidence as part of
7 that exhibit.

8 Q This is from Mansour Bin Zayed Al Nahyan; correct?

9 A Yes, Sheikh Mansour.

10 Q The person you call Sheikh Mansour.

11 And it's Najib Razak, the Prime Minister at the time
12 of Malaysia; correct?

13 A Yes. Correct, sir.

14 Q And do you have any -- what did you do with this letter
15 when you got it?

16 A I believe I submitted it within Goldman Sachs.

17 Q So this is -- this is the letter from Sheikh Mansour on
18 the second deal?

19 A Yes, sir.

20 Q Now, I want to show you the two letters side by side for
21 a second. This is the first -- the one that I just put down
22 was the one that was admitted earlier today.

23 Do you know who wrote this letter?

24 Do you know who wrote it?

25 A No, I don't.

Leissner - cross - Agnifilo

1869

1 Q You didn't write it?

2 A No, sir.

3 Q Because it's being sent to you by Nik Faisal who you
4 believe to be actually Jho Low?

5 A That's correct. It's certainly signed by His Majesty,
6 Sheikh Mansour.

7 Q All right. You didn't see him sign it; right?

8 A Sorry?

9 Q You didn't see him sign it?

10 A No, I did not, sir.

11 Q You didn't see him sign either of these letters?

12 A That's correct.

13 Q What did you, in fact, do when you got this letter from
14 the person you believed to be Jho Low sending to you as Nik
15 Faisal?

16 What did you actually do with the letter?

17 A Again, I think I just answered that, but I believe I
18 submitted it within Goldman Sachs.

19 Q Okay. And do you remember when you did that?

20 A No, sir.

21 Q And tell me how is it that you came to be the transmitter
22 of letters from Sheikh Mansour to Goldman Sachs?

23 Who did you discuss that with?

24 What did you say? What did they say?

25 How did you come to be in this role?

Leissner - cross - Agnifilo

1870

1 A I got to be in this role, sir, because Jho had selected
2 me at the outset to deliver that letter from Najib to Khadem
3 to be delivered to Sheik Mansour. He wanted a senior -- or a
4 partner from Goldman Sachs, a senior banker, and given that I
5 had met him on numerous occasions before that, I was the
6 chosen banker, not, for example, Andrea Vella. He wanted a
7 partner with stature to deliver the letter, a partner with
8 stature within Goldman Sachs, which to him was an important
9 part, to him, being Jho, to deliver that letter from Najib to
10 Khadem to be onward sent to Sheikh Mansour, and that's the
11 first step. And that's how I became the person with the
12 letters between the two parties, if you were.

13 Q Now, when we were talking before lunch, I asked you how
14 long you had the letter. We were just talking about the first
15 letter, the first Sheikh Mansour letter and the first Najib
16 letter, and you said for years?

17 A That's correct.

18 Q And explain that. How is it that you had these letters
19 for years?

20 A I had provided Goldman Sachs with copies and I retained a
21 copy for myself as well.

22 Q And where did you keep your copy?

23 A I had it in a folder that included some other letters
24 that Goldman Sachs had written on behalf -- to 1MDB and
25 others. I had kept those things with me on my person for

Leissner - cross - Agnifilo

1871

1 years.

2 Q And where are they now?

3 A With my wife at home.

4 Q In Los Angeles?

5 A That's correct.

6 Q The originals?

7 A No, the copies.

8 Q But --

9 A I never kept the originals, sir. I kept copies.

10 Q The copies that you originally had, that same physical
11 letter that you had all these years?

12 A That's right, sir.

13 Q Did you ever give them to the Government?

14 A Yes, sir.

15 Q The ones that you had?

16 A I believe I had a little folder with that which I handed
17 over to the Government, at least as far as I remember, it in
18 2018.

19 It was kind of a little bit, at the time I believed,
20 like life insurance because I was dealing with very important
21 Governments, et cetera, at that time.

22 Q And you have a clear recollection of giving that to the
23 Government?

24 A Yeah, I do believe so, sir.

25 Q Do you remember -- do you remember when?

Leissner - cross - Agnifilo

1872

1 I know you said 2018. But do you remember when in
2 2018?

3 A During the few months that we spent together on proffers.

4 Q So I'm confused. I apologize for asking the question
5 again.

6 When I asked you where the letters were, you said
7 they were home with your wife?

8 A That's right.

9 Q Is it a copy that's home with your wife and you gave the
10 Government the physical copy you had all these years?

11 I'm just trying to understand how you gave it to the
12 Government yet it's home with your wife. Just explain it to
13 me.

14 A First of all, we're never talking about originals. So
15 we're talking about photocopies every time.

16 So I had a set of photocopies of various letters,
17 those included, as well as those of Prime Minister Najib,
18 letters from Goldman Sachs, like Mike Evans to Prime Minister
19 Najib and others. I had them in a folder, which I had on my
20 person when I was arrested.

21 I think -- to my recollection, at least, I handed
22 over that folder to the Government. And I don't know if they
23 took copies of those and gave me back the one that I had
24 originally. And I gave a copy, I believe, to my lawyers at
25 the time, Judge Sullivan, Eugene Sullivan and his son. And I

Leissner - cross - Agnifilo

1873

1 don't know if I ended up with copies or the originals of the
2 copies at that time. I don't know.

3 Q Okay. And so I just want to make sure I understand your
4 answer.

5 You fly into United States, in Dulles Airport on
6 June the 10th, 2018?

7 A That's correct.

8 Q And you have this group of letters with you?

9 A That's correct, sir.

10 Q And you were arrested by the FBI?

11 A That's right.

12 Q And they took the letters on that day?

13 A No, sir.

14 Q They let you keep the letters?

15 A They let me keep my bag my letters were in.

16 Q And, so, you did not give them to the FBI that day? I'm
17 talking about June 10, 2018.

18 A Yes. To my recollection it was at a later date.

19 Q Okay. So you enter the country with letters from Najib,
20 Sheikh Mansour, other letters, and the FBI lets you keep them
21 even after your arrest?

22 MR. ROLLE: Objection to the form, Judge, and we
23 could briefly approach.

24 MR. AGNIFIL0: I will ask a new question, Judge.

25 Q I just want to make sure I understand.

Leissner - cross - Agnifilo

1874

1 The physical letters -- we're not talking about
2 things on a computer in electronic form. We're talking about
3 the actual physical, hard copies letters, right?

4 You have to answer yes or no so she can write it
5 down.

6 A Yes.

7 Q And you have those physical letters in your possession on
8 June the 10th, 2018?

9 A That's correct, sir.

10 Q Okay. And they're all in a little like folder together?

11 A That's correct.

12 Q And you were arrested at Dulles Airport in Washington,
13 D.C.?

14 A That's correct.

15 Q And where are those letters? Are they in a suitcase?
16 Are they in a briefcase? Where are they?

17 A They're in a TUMI briefcase.

18 Q They're in a briefcase?

19 A Yes.

20 Q And the FBI didn't take the briefcase?

21 A They did not sir.

22 Q Okay. So in your particular arrest, you kept your
23 briefcase?

24 A Yes, sir.

25 Q Okay. And you brought your briefcase to the Marriott

Leissner - cross - Agnifilo

1875

1 Renaissance the night of June 10, 2018?

2 A Yes, sir, to the Marriott. I don't know if it's a
3 Renaissance, but the Marriott in Washington, D.C.

4 Q Okay. And you met with the Government the next day, June
5 11, 2018?

6 A That's correct.

7 Q Did you give the Government the letters from the
8 different world leaders? Did you give them the letter or
9 letters from Sheikh Mansour and Najib on June 11th?

10 A I don't believe so. I believe it was at a later stage.

11 Q Okay. You spoke with the Government again on June 12th.
12 Did you give the letters to them on June 12th?

13 A No, sir. I think it was at a later stage then that
14 particular week.

15 Q Did you think to mention to the FBI, when you were
16 speaking to them on June 11th, you guys should know I have
17 hard copies of letters to world leaders, including the Prime
18 Minister of Malaysia, including Sheikh Mansour of Abu Dhabi?

19 Did you say that to them, starting with June 11,
20 2018?

21 A Not that I remember.

22 Q Did you tell them on -- the next day, June 12, 2018, you
23 guys should know I have a hard copy letter from Sheikh Mansour
24 and a hard copy letter from the Prime Minister of Malaysia?
25 Did you tell them then?

Leissner - cross - Agnifilo

1876

1 A No.

2 The first recollection I have was I did so in New
3 York.

4 Q So you're brought to New York on June the 14th and you go
5 to court -- June the 13th, and then you go to court on the
6 14th?

7 A That's correct.

8 Q And then you have meetings on the 14th and the 15th?

9 A Yes, sir.

10 Q Is that when you told them that you had hard copy
11 letters?

12 A No. I don't remember which day it was. I remember it
13 was in New York.

14 Q Can you give us a month? So we're in June of --

15 THE COURT: Move on, counsel.

16 MR. AGNIFIL0: Sorry, Judge?

17 THE COURT: Move on.

18 MR. AGNIFIL0: I didn't hear you.

19 THE COURT: Move on.

20 MR. AGNIFIL0: Move on.

21 Q I have a question about what you said to the FBI.

22 Do you remember telling the FBI, in June, that you
23 had a faint memory of delivering a letter from Najib to
24 Al-Husseiny intended for Sheikh Mansour?

25 Do you recall telling them that?

Leissner - cross - Agnifilo

1877

1 A No, sir.

2 Q So, now, just so I understand this, when you did,
3 whenever it might be, get around to giving the Government hard
4 copies of these letters, you kept copies for yourself?

5 A Yes, sir.

6 Q And those copies are -- are in Los Angeles?

7 A That's correct.

8 Q We're going to go to 2415, defense exhibit for
9 identification, and we are going to look top -- the top two or
10 three e-mails you're not on. We're not going to offer those.
11 We're going to offer the ones that you are on. So if we could
12 go about halfway down. There's an e-mail exchange between
13 yourself and Wassim and Hazem and others from Goldman Sachs.

14 A Yes.

15 Q And do you see that? Do you see it's an e-mail from Toby
16 Watson to yourself and others at Goldman?

17 A Yes.

18 MR. AGNIFILO: We offer that as 2415.

19 MR. ROLLE: No objection.

20 THE COURT: And this is redacted in part?

21 MR. AGNIFILO: Yes, it's redacted in part. That's
22 right.

23 THE COURT: It's admitted.

24 (Defendant's Exhibit 2415 received in evidence.)

25 (Exhibit published.)

Leissner - cross - Agnifilo

1878

1 Q All right. We're going to go to the bottom e-mail. And
2 that is an e-mail from you; right?

3 A Yes, sir.

4 Q It's to Wassim Younan, Andrea Vella, and Toby Watson;
5 right?

6 A Yes, sir.

7 Q It says, Waiting for Khadem to sign the document which
8 should happen shortly; right?

9 A Yes.

10 Q Apparently, not only did the DMO signoff on the deal, so
11 did the HH Crown Prince, HH Sheikh Mansour, obviously, and
12 also the executive council of Abu Dhabi itself; right?

13 A That's right, sir.

14 Q So, now, tell me who all these different parties are.

15 You say not only DMO signoff on the deal, what's the
16 DMO?

17 A It's the debt management office of Abu Dhabi, sir.

18 Q And why does the debt management office of Abu Dhabi have
19 to signoff on the deal?

20 A Post Project Magnolia, sir, the Government of Abu Dhabi
21 was concerned about the transaction whereby IPIC provided a
22 guarantee to 1MDB.

23 The reason they were concerned is that although IPIC
24 had only given a guarantee and 1MDB was actually raising the
25 bonds, by virtue of it being a guarantee, it now counted for

Leissner - cross - Agnifilo

1879

1 -- as debt on the books of Abu Dhabi, the country, with
2 respect to the World Bank.

3 The World Bank keeps track of debt levels of every
4 country around the world and guarantees, as opposed to letters
5 of support, will count against debt of a country. So Abu
6 Dhabi was concerned post Project Magnolia and instituted this
7 office that was supposed to regulate and approve any further
8 guarantees or debt issuance by Government entities other than
9 Abu Dhabi.

10 Q And then it says so did the HH Crown Prince; right?

11 A That's His Highness, the Crown Prince. That's correct.

12 Q Sheikh Mansour, obviously, you say?

13 A Yes.

14 Q All right. And these are -- now, do you have copies --
15 what is this? What are they all signing here?

16 A It's a signoff. Not signing *per se*, sir.

17 Signoff means an approval for Project Maximus, I
18 believe, from a timing perspective here.

19 Q So it's actually signing off on the deal?

20 A That's correct. Approving it.

21 Q Understood. All right.

22 MR. AGNIFILO: We are going to go DX 2421 and we are
23 going to excise the first page, Judge. And let's go to the
24 second page and show that for identification.

25 Q Do you see that? It's an e-mail from yourself.

Leissner - cross - Agnifilo

1880

1 Are you looking at the right one?

2 A Yes.

3 Q It's from you. It's to Jho Low, Szen Low, and a few
4 other people; right?

5 A Yes, sir.

6 MR. AGNIFILO: We offer it, Your Honor, and it's
7 2421, Judge.

8 MR. ROLLE: With redaction, no objection, Judge.

9 THE COURT: It's admitted subject to redaction.

10 (Defendant's Exhibit 2421 received in evidence.)

11 Q Let's look at the e-mail below this one. All right. So
12 this is from Low; correct? Jho Low?

13 A Correct.

14 Q It's to you; correct?

15 A That's right.

16 Q It copies Li Lin?

17 A Correct.

18 Q Szen Low?

19 A Yes.

20 Q And Szen Low is his brother?

21 A That's correct.

22 Q Is that Mohamed Al-Husseiny from Aabar?

23 A Yes.

24 Q All right. And it says, Urgent next steps on La Perla
25 offer; right?

Leissner - cross - Agnifilo

1881

1 A That's correct.

2 Q And it says, As discussed, we are extremely serious with
3 respect to the La Perla opportunity; right?

4 A That's correct.

5 Q What La Perla opportunity are you all discussing here?

6 A I believe it was the acquisition of this company, La
7 Perla.

8 Q What's La Perla?

9 A I believe it's a -- it's a high-end underwear
10 manufacturer, fashion company.

11 Q All right. So then he says there in point one, Jynwell
12 Capital Limited will lead a consortium of potential blue-chip
13 investors, such as Aabar Investments, PJS, and prominent GCC
14 Royal family members, Jynwell Consortium to offer to acquire
15 control of La Perla; right?

16 A That's right.

17 Q And Aabar Investments PJS, that's Aabar; correct?

18 A Yes.

19 Q And GCC, what is GCC Royal family members?

20 A The GCC was the Gulf Council, basically. The Arab
21 countries around the Gulf.

22 Q If we could go down past those five, we see a 50/50
23 partnership, he says 50:50 partnership with Mubadala and the
24 ownership of the Viceroy Hotel Group?

25 A Yes.

Leissner - cross - Agnifilo

1882

1 Q So he wanted to kind of join the forces -- be in
2 partnership with Mubadala to own the Viceroy Hotel Group?

3 A I'm sorry. I think you have to be precise it -- the
4 background here on Jynwell, so I believe this partnership has
5 already been in place.

6 Q That's already happened?

7 A That's right. It has happened already.

8 Q Partnership with Sony ATV. What is Sony ATV?

9 A I think it's the Japanese entertainment company.

10 Q Okay. Mubadala, we have discussed Mubadala?

11 A Yes.

12 Q And Blackstone's GSO in the U.S. \$2.2 billion acquisition
13 of EMI publishing?

14 A Correct.

15 Q Tell us about that deal.

16 A I don't know much about that deal, sir.

17 I know that EMI was a publishing house which was
18 bought partly by Jho and the consortium. I was never involved
19 in that acquisition, so I only know it, you know, from memory
20 here that Jho was involved in that acquisition.

21 Q Now, at this point, you respond to him in the e-mail
22 above.

23 MR. AGNIFILO: If we can just look at the e-mail
24 above.

25 Q Okay. Dear Jho, Mohamed and team, many thanks for your

Leissner - cross - Agnifilo

1883

1 e-mail. Really appreciate you coming back so quickly.

2 I'm copying my colleague Richard Peacock as he is
3 running the investment process from the Goldman Sachs side;
4 correct?

5 A That's correct, sir.

6 Q All right. So here we are in October of 2012 and we have
7 Jho Low as Jho Low?

8 A Yes.

9 Q Jho Low at Jynwell Capital; right?

10 A Uh-hum.

11 Q Sending an e-mail to you on your Goldman Sachs investment
12 banking e-mail; right?

13 A That's correct.

14 Q It goes to Richard Peacock on his Goldman Sachs
15 investment banking e-mail; right?

16 A Correct.

17 Q So at this point, Goldman Sachs is having these dealings
18 with Jho Low; correct?

19 A Yes. However -- yes, we are communicating with Jho.

20 Dealings, I'm not so sure that could be classified
21 as such, sir, because at this time we are trying to make an
22 introduction here into the La Perla process, which maybe I
23 don't know the context again of the rest of the e-mail, we
24 were possibly selling on our side. So we were -- the way that
25 I read it, at least -- on the sell side here.

Leissner - cross - Agnifilo

1884

1 Q So it's not as though that as of the fall of 2012 Jho Low
2 is out of Goldman Sachs for all purposes because here he is
3 having detailed specific e-mails about specific deals as Jho
4 Low to your Goldman Sachs' e-mail and to Richard Peacock's
5 Goldman Sachs' e-mail, am I right?

6 A Yes, that's fair.

7 MR. AGNIFIL0: All right. We're going to go ahead
8 to Exhibit 2430, Defense Exhibit 2430 for identification.

9 Q And this is e-mail traffic between yourself and Andrea
10 Vella and Michael Evans.

11 Do you see that?

12 A Yes. At the bottom, I see that. Yes.

13 MR. AGNIFIL0: We offer it as 2430, Judge.

14 MR. ROLLE: One moment, Judge.

15 No objection, Judge.

16 THE COURT: It's admitted.

17 (Defendant's Exhibit 2430 received in evidence.)

18 Q So we're going to go down to an e-mail at the bottom,
19 toward the bottom, from you Michael Evans and Vella.

20 Okay. That's it.

21 It just says, Absolutely, last night Asia time we
22 closed the transaction. We bought the 1MDB notes and 1MDB
23 closed the M&A transaction. We are now de-risking and Andrea
24 Vella is the best to give you that update.

25 Now, the M&A transaction, we were talking about that

Leissner - cross - Agnifilo

1885

1 earlier in the day.

2 Is this all sort of the consolidation of assets with
3 the IPO in mind?

4 A Well, it was the first step in that process that we
5 discussed earlier. It was the Genting transaction. It was
6 the acquisition of the Genting Power assets.

7 MR. AGNIFIL0: We are going to go ahead to 2433.

8 Q If we look at that top e-mail. Do you see it there?
9 It's an e-mail from Michael Toure at Goldman to yourself and
10 Jho Low and others?

11 A Yes, sir.

12 MR. AGNIFIL0: We offer that as 2433, Judge.

13 MR. ROLLE: No objection.

14 THE COURT: Admitted.

15 (Defendant's Exhibit 2433 received in evidence.)

16 Q Let's go to that bottom e-mail.

17 And that e-mail is from Szen Low, Jho Low's brother;
18 right?

19 A Yes, sir.

20 Q To Michael Toure? Yes?

21 A Yes.

22 Q Copying Jho Low; right?

23 A Yes, sir.

24 Q Copying Seet Li Lin?

25 A Yes.

Leissner - cross - Agnifilo

1886

1 Q And then copying you; right?

2 A That's correct.

3 Q And Szen Low says, Dear Michael -- Michael Toure -- we
4 can meet at your office, please let us know if this works for
5 you; right?

6 A Yes, sir.

7 Q So let's go to the e-mail above. This is Michael Toure
8 getting back to Szen Low.

9 So Michael Toure writes to Szen Low, copying Jho
10 Low, Seet Li Lin, and yourself; right?

11 A That's correct.

12 Q And it says, Szen, happy to welcome you at our offices.

13 That means the Goldman Sachs' office; right?

14 A That's correct.

15 Q "Would that be okay if we start the meeting 5:30 U.K.
16 time? I will be coming back from another meeting and 5:00
17 p.m. might be a bit tight."

18 Do you see that?

19 A Yes, sir.

20 Q Okay. So do you know if Jho Low himself came to the
21 Goldman Sachs' offices or was it just Szen Low?

22 A I don't remember, sir, if I -- I don't remember being
23 present in this meeting, so I don't know if Jho actually
24 showed up for this meeting.

25 Q Okay. You talked on direct examination about something

Leissner - cross - Agnifilo

1887

1 called World Merit, the World Merit Management Limited; right?

2 A Yes, sir.

3 Q What is that?

4 A That was one of the two shell companies that I used in
5 Hong Kong and were owned by my wife.

6 Q Okay. And at some point this account, the World Merit
7 account, got a certain amount of money at the close of the
8 Genting transaction; right?

9 A That's correct, sir.

10 Q And remind the jury of how much money came into the World
11 Merit account from the Genting transaction?

12 A I don't remember exactly how much money went to World
13 Merit, sir.

14 Q Can you tell us approximately?

15 A Tens of millions of dollars, I believe.

16 Q Tens of millions of dollars?

17 A That's correct.

18 Q And who directed that money to the World Merit account?

19 A It was my understanding that Jho had directed that.

20 (Continued on next page.)

21

22

23

24

25

LEISSNER. CROSS. AGNIFILO

1888

1 CONTINUED CROSS EXAMINATION

2 BY MR. AGNIFILO:

3 Q What did you do with money that went to the World
4 Merit account?

5 A Part of it was sent to one of the Genting family
6 members. And part of it was sent to Capital Place for
7 further distribution.

8 Q And which Genting family member was part of the money
9 sent to?

10 A It was the brother of the chairman and CO. Chi Wa
11 Linman.

12 Q What, if any, discussion did you and Low have around
13 the topic of this money coming from Genting to World Merit
14 and then World Merit sending it out to this person who is in
15 the Genting family?

16 A I don't know the exact discussion we had. He gave me
17 -- he certainly gave me the instruction that I should be
18 paying Chi Wa from that money that World Merit received.

19 Q Where were you and Low when you had that discussion?

20 A I don't know if we were in the same place, sir. It
21 could have been by Blackberry messenger or telephone call,
22 or in a meeting. But I don't recall exactly the
23 circumstances of how he communicated that to me.

24 Q That was towards the end of October 2012; does that
25 sound right?

LEISSNER. CROSS. AGNIFILO

1889

1 A It does sound right, yes.

2 Q Do you remember being invited to Jho Low's birthday in
3 November 2012?

4 A Yes, sir.

5 Q I believe the guest list is already in evidence as
6 government Exhibit 2812. So we can put it up.

7 All right. This is already in evidence as
8 Government Exhibit 2812. And this is the guest list for Jho
9 Low's birthday in November of 2012. Do you see that on the
10 screen okay?

11 A Yes, sir.

12 Q And on the top of the list we have Howard Low. Do you
13 know who that is?

14 A No, sir. Sorry.

15 Q Szen Low we've been discussing, correct?

16 A Yes.

17 Q And these are all of the people under the heading
18 Malaysia. So just so the record is clear. Under Malaysia,
19 there are 11 different entries.

20 Do you see that?

21 A I see that sir.

22 Q The first entry under Malaysia is Howard Low. And you
23 said you didn't who that was, right?

24 A Correct.

25 Q And then Szen Low, that's Jho Low's brother, right?

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1890

1 A Yes.

2 Q Jasmine Loo we've discussed at great length during this
3 trial. She's the general counsel for 1MDB, correct?

4 A Correct.

5 Q And then fourth under the Malaysia section is Tim
6 Leissner. You, right?

7 A That's right, sir.

8 Q Number five is Nik Kamil, right?

9 A Yes.

10 Q And then do you know who Yunita Dini is?

11 A No, sir.

12 Q Do you know who Zairul Asmin is?

13 A No, sir.

14 Q Do you know who Keng Chee Tang is?

15 A No, sir.

16 Q Do you know who Kee Kok Thian is?

17 A No, sir.

18 Q Kim Loong Tan. Do you know who that is?

19 A That's the name that Eric Tan is going by as well.

20 Q So that's Eric Tan. Who is Eric Tan? Remind us who
21 Eric Tan is?

22 A Eric Tan was a person extremely close to Jho who was
23 with Jho, I would say 85 percent of the time that I met him
24 in the later stages of my interactions with Jho. Like from
25 2014 onwards is when I met Eric Tan many times. I met him

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1891

1 before that maybe once in LA, but he was very close to Jho.

2 Q And then the rounding out the list of 11 people from
3 Malaysia is Jho Low himself, right?

4 A Yes, sir.

5 Q Roger is not, you agree with me, on this list at least
6 of the 11 people from Malaysia, correct?

7 A He was there though, sir.

8 Q My question though is: Is he on this list?

9 A Not on this list that I see, but I also don't know what
10 that list is about. I don't see him on this list, if that's
11 your question.

12 Q You're sure, you're absolutely 100 percent positive he
13 was in Las Vegas, Nevada, for sure at Low's party?

14 A Yes, sir.

15 Q 100 percent?

16 A As sure as I can be, yes.

17 Q As sure as you can be of anything?

18 A Yes.

19 Q Yes?

20 A Yes.

21 Q So let's just then go through the list and see maybe
22 he's somewhere else. From Thailand we have three people
23 listed from Thailand, right?

24 A Yes, sir.

25 Q He's not one of those, right?

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1892

1 A Right.

2 Q Hong Kong, he's not that person, right?

3 A Nope.

4 Q From Singapore we have Yew Che Yak, right? Now we know
5 who that is, right?

6 A Yes, sir.

7 Q Remind us who that person is?

8 A He was a private banker at BSI.

9 Q And London we have two people, right?

10 A Yes.

11 Q We have six people on this page just from Kuwait, do
12 you see that?

13 A Yes, sir.

14 Q We're going to turn it over. We have more people from
15 Kuwait. A total of 12 people from Kuwait, right? Do you
16 see that?

17 A Yes.

18 Q UAE we have one person from United Arab Emirates,
19 right?

20 A Yes.

21 Q We have two people from Saudi Arabia, right?

22 A Yes.

23 Q And then for United States it's broken up by city. So
24 for the balance of this particular page, you have 18 people
25 from Los Angeles, correct?

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1893

1 A Yes, sir.

2 Q All right.

3 And some of them are celebrities, right?

4 A Yes.

5 Q People that you've heard of, right?

6 A Yes.

7 Q From the entertainment field?

8 A Correct.

9 Q And then it continues on the next page. So there's a
10 total of 37 people from Los Angeles and some of these people
11 are celebrities. People that you you've heard of without
12 haven't met them personally up until this point, correct?

13 A Correct.

14 Q Then we have someone from Atlanta and then we have nine
15 people from New York, right?

16 A Yes, sir.

17 Q And we haven't seen Roger yet, right?

18 A Not on this list, correct.

19 Q Then we have the balance. We have 34 people from New
20 York, right?

21 A Yes, sir.

22 Q Less people from New York than Los Angeles, which is an
23 outrage. Do you see that? 34?

24 A I see them. 34.

25 Q You have 8 people from Vegas, correct?

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1894

1 A On this page, yes.

2 Q You have a total of 17 people from Vegas?

3 A Yes, sir.

4 Q Still no Roger. USA Miami we have someone. We have a
5 bunch of people from Boston, from Detroit, Mongolia, Aruba.
6 Aruba did well. Aruba has 13 people. Do you see that?

7 A Yes, sir.

8 Q Roger is not on the list, right?

9 A I don't see Roger on this list.

10 Q But you're telling us you're as sure as you've ever
11 been sure of anything that Roger was in Las Vegas?

12 A Yes.

13 Q And you have specific recollections of things that you
14 saw him do in Las Vegas?

15 A Yes. I remember seeing him in the lobby of the hotel.
16 I believe.

17 Q I want to take you through them.

18 You didn't talk about this party on your direct
19 examination, did you?

20 A No, sir.

21 Q No.

22 So on your direct examination, you didn't have the
23 opportunity to tell the jury about seeing Roger at this
24 party.

25 A Correct.

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1895

1 Q Okay. So tell me about all of the times, tell us all
2 about all of the times you absolutely, 100 percent, saw
3 Roger at Jho Low's birthday party. What is the first time
4 you saw him?

5 A I don't remember those circumstances, sir. The only
6 thing I remember in the back of my mind is that we met in
7 the back of the lobby of the hotel. Whatever hotel we were
8 staying at.

9 Q You can't remember the hotel as you sit here today?

10 A That's right.

11 Q But you saw Roger there?

12 A Yes.

13 Q Absolutely positive?

14 A Yes.

15 Q Did you speak to him?

16 A Yes.

17 Q What did the two of you talk about?

18 A I don't remember, sir.

19 Q What did you do? Did you go your separate ways or did
20 you stay together for a time?

21 A Sir, I don't remember all the circumstances of that
22 particular time. Again, Roger and I were always together,
23 so this is not a particular special time in my mind. Other
24 than the event itself. But being with Roger is not
25 necessarily a very special occasion for me. We were

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1896

1 together all of the time.

2 Q Do you remember that you and he went to Jho Low's
3 suite?

4 A No, sir. I don't remember that.

5 Q Do you remember telling the FBI that you went to Jho
6 Low's suite with Roger?

7 A No, sir. I don't remember that.

8 Q You don't remember that, okay. Let me see if I can
9 show you.

10 What I'm going to do is I'm going to give the
11 witness, judge, TL3108 and TL3109?

12 THE COURT: Okay.

13 MR. AGNIFIL0: And 3110.

14 Q Do me a favor, read that over.

15 A Yes, sir.

16 Q So I'm going to ask you some questions.

17 Do you remember if you and Roger went to Jho Low's
18 suite? You said you didn't remember that?

19 A That's correct.

20 Q Do you remember telling the FBI on the date of that
21 report, on page eight, that you and Roger went to Jho Low's
22 suite?

23 A No, sir. I don't remember saying that. I don't
24 remember going to the suite, but it could have happened.
25 There were so many things happening at that party that I

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1897

1 don't remember the specific event now.

2 Q Do you remember that Low got a present from someone
3 named Swizz Beats?

4 A No.

5 Q Do you know who that is?

6 A Yes, I do know who is he, yes.

7 Q Do you remember telling the FBI that you and Roger saw
8 Low when Low got a present from Swizz Beats? Page eight of
9 the document I gave you?

10 A No, sir. I don't remember that event.

11 Q But here's my question for the time being.

12 I'm going to ask you about the event and then I'm
13 going to ask you if you remember saying certain things to
14 the FBI, so they're going to be separate questions, okay?
15 So for the moment I'm asking about the event.

16 You don't remember that you and Roger were
17 together when Low got a present from Swizz Beats. You just
18 don't remember that.

19 A That's right.

20 Q Now my different question is: Do you remember telling
21 the FBI that you and Roger saw Low when Low got a present
22 from Swizz Beats?

23 A I don't remember that, no.

24 Q Okay. And just so we're clear. This form that I gave
25 you, is from April 29, 2021?

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1898

1 A Okay.

2 Q Okay.

3 Do you remember that you and Roger were with
4 Kate Upton at the time that Low got his present from Swizz
5 Beats?

6 A No, sir, because I don't remember the event itself. So
7 I don't, I don't.

8 Q You don't remember the event itself?

9 A The suite event that you're describing here or, you
10 know, that note, I don't remember it.

11 Q So let me ask you.

12 Tell us all of the things you remember about Low's
13 birthday. The birthday party in Las Vegas.

14 A I remember it was a very significant event. I remember
15 getting there in a conway of SUV's. Tagging onto Jho. And
16 I remember staying very briefly at the party itself. It was
17 offsite at a -- in an empty lot of Las Vegas. I remember
18 some of the celebrities being present. That I recognized,
19 at least. And then I headed back within half an hour or so.

20 Q Tell me what you remember seeing of Roger. Tell me all
21 of the things you remember of seeing Roger at the birthday
22 party in Las Vegas, in November of 2012?

23 A I did -- I did most of the event by myself. I remember
24 the only time I remember seeing him in the lobby of the
25 hotel.

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1899

1 Q And you can't remember the hotel?

2 A No, I don't remember which one it was.

3 Q So you don't remember, you don't remember, that you and
4 Roger were with Kate Upton at the time that Low got his
5 present from Swizz Beats. You don't remember that?

6 A That's correct.

7 Q Do you remember if you and Roger stayed in the same
8 hotel?

9 A No. I don't remember that either. I don't remember
10 the hotel so, no. I don't.

11 Q Was Jasmine Loo at the party?

12 A Yes. I believe so.

13 Q Do you remember seeing her at the party?

14 A Yes. I believe so as well. Yes.

15 Q Do you remember that you and Roger met in the lobby of
16 the hotel along with Jasmine Loo and Terrence Gay?

17 A I believe so, yes.

18 Q So Terrence Gay was there, too?

19 A I don't remember him in the lobby, but I remember him
20 at the party.

21 Q Where was Terrence Gay in the party?

22 A I can't put him there, but I remember seeing him at the
23 event.

24 Q Do you remember also seeing him in the lobby of the
25 hotel with Jasmine Loo?

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1900

1 A No.

2 Q Do you remember telling the FBI that you and Roger met
3 in the lobby of the hotel along with Jasmine Loo and
4 Terrence Gay?

5 A No. I remember the event that we were with Jasmine at
6 the time. But, Terrence, I don't remember.

7 Q Did you and Roger go to Low's suite together?

8 A As I mentioned, I don't remember going to the suite.

9 Q Do you remember telling the FBI -- now we're on page 9.
10 That you and Roger went to Jho Low's suite together? Look
11 on page nine.

12 A Yeah, I don't remember going to that suite, sir. So
13 yes, I don't remember that.

14 Q Yeah, but my question for the moment isn't whether you
15 remember or not.

16 It's did you tell the FBI?

17 A I don't remember that either.

18 Q You didn't tell them that?

19 A Well, I don't remember it.

20 Q You don't remember telling them that?

21 A That's right.

22 Q Do you remember telling the FBI that you and Roger were
23 led to Low's suite by security?

24 A I think we can try this again in different ways, but I
25 don't remember going to his suite.

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1901

1 Q Didn't you tell the FBI that you and Roger went to
2 Low's suite and were led there by security? Didn't you tell
3 them that?

4 A I don't remember sir.

5 Q Didn't you tell the FBI that you and Roger were in
6 Low's suite when Low came out of his room with Kate Upton?

7 A No, sir because I don't remember this. The specific
8 event of the suite.

9 Q Didn't you tell the FBI that you and Rob were in Low's
10 suite along with Benicio Del Toro?

11 A I remember Benicio Del Toro being at the party, but I
12 can't place him at the suite. I do remember he was there.

13 Q Do you remember if you, Roger, Jasmine, and Terrence
14 Gay went to the party together?

15 A No I don't remember that.

16 Q Did you tell the FBI that you, Roger, Jasmine, and
17 Terrence went to the suite together on page nine?

18 A To the suite. I don't remember going to the suite,
19 sir. And I don't remember saying that to the FBI.

20 Q Did Roger stay after the party -- did Roger stay at the
21 party after you left?

22 A I believe so, yes, sir. I remember that -- the reason
23 I say that is I remember being one of the first ones to
24 leave the party. I took one of the cars that was bringing
25 in people I was taking that back. I was literally one of

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1902

1 the first ones to leave.

2 Q Do you remember something about Roger meeting Bradley
3 Cooper?

4 A No, sir.

5 Q Do you remember Roger pointing Bradley Cooper out to
6 you?

7 A I remember Bradley Cooper being pointed out to me. I
8 don't remember if it was Roger.

9 Q You told the FBI, didn't you, that Roger was excited by
10 Bradley Cooper's appearance, and specifically pointed him
11 out, page nine?

12 A Sir, that may be the case, but I don't remember that.

13 Q May be the case that you told that to the FBI?

14 A No. It may be that he did do so, but I don't remember
15 the event.

16 Q So you and Jasmine were together at the party for some
17 period of time, correct?

18 A Not me particular with her. I was there by myself.
19 Everybody else was in the party too, sir. Including her.
20 And a huge, I mean like thousands of people in that hall.

21 Q Thousands of people?

22 A It was humongous. It was huge.

23 Q Where was it again? I know it was in Las Vegas, but
24 where was it?

25 A It was in an empty lot. I believe it was the Resort

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1903

1 World, Resort World empty lot and it was a big tent that had
2 been erected.

3 Q Tell us what you remember. I'm not asking you for the
4 moment about Roger. Just tell us about the event?

5 A It's what I just mentioned before. I remember there
6 were a number of celebrities present. It was a very big
7 crowd, and I remember it being in a tent. And I remember
8 leaving in the first few cars that were actually still
9 bringing people in. I left on those, so I stayed half an
10 hour or so.

11 Q And then people were singing? There were performers?

12 A Yes, I vaguely remember that.

13 Q Do you remember what was singing? Who was performing
14 at the birthday?

15 A No.

16 Q Did you talk to Low at the party?

17 A Sorry?

18 Q Did you talk to Low at the party?

19 A Did I? Sorry.

20 Q Did you speak to Jho Low. At Jho Low's birthday party,
21 did you speak to him?

22 A No, I did not. I spoke to him, I believe, in the lobby
23 again as we were going towards the cars. But at his party,
24 I don't think so.

25 Q Now, I think you said that Roger was invited to the

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1904

1 party?

2 THE COURT: Time period, counsel.

3 MR. AGNIFIL0: No. That Roger was invited to the
4 party. That he actually was invited to Jho Low's birthday
5 party.

6 THE COURT: His answer to your question about
7 whether Roger was on the list is that he was at the party.

8 MR. AGNIFIL0: No, no. But he --

9 Q You're saying he was at the party?

10 A That's right.

11 Q Do you know of a different list of invitees than the
12 one I showed you?

13 A I don't know of any list of invitees, sir. The first
14 time I saw a list of invitees is when you showed it on the
15 screen.

16 Q Now, when you left Low's party, you and Jasmine flew
17 together where?

18 A I don't remember I was flying with her, sir. I believe
19 I returned to Asia. But, you know, again there was so many
20 business trips that year. I don't remember where else I was
21 flying. But I think I returned to Asia.

22 Q Do you remember that you and Jasmine flew to New York?

23 A It may be the case, but I don't remember it, sir.

24 MR. AGNIFIL0: All right. I'm going to offer for
25 identification DX2450.

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1905

1 Q Do you see that up there? This is one of these
2 calendar invites concerning you and travel. Do you see
3 that? Not a calendar invite, it's a calendar entry.

4 A Yes, sir.

5 MR. AGNIFILO: We offer 2450.

6 MR. ROLLE: No objection.

7 THE COURT: It's admitted.

8 (Defendant's Exhibit 2450 received in evidence.)

9 Q We're looking at what's been admitted at 2450.

10 Does this indicate that you flew from Las Vegas,
11 Nevada, to New York JFK on the 5th of November?

12 A Yes, I believe so. Yes.

13 Q Do you recall if Jasmine flew along with you?

14 A No. I don't recall, sir.

15 Q Do you recall anything about your time in New York in
16 November of 2012?

17 A No, I don't remember. Specifically for this time
18 period, no.

19 MR. AGNIFILO: Your Honor, we're at a transition
20 point. I know it's about 3:30.

21 THE COURT: Okay. Members of the jury, today is
22 Thursday. It is Thursday, right? We're not sitting
23 tomorrow. So we won't see you again until 9:30 on Monday.
24 I want to give you a little bit of information about the
25 trial. We expect that the trial may continue to the end of

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1906

1 March. I know -- or maybe even the first week in April. So
2 if that will pose a problem, you should definitely let
3 Ms. Valentine or Mr. Neptune know about that.

4 I know there's at least one of you who has an
5 appointment on the 31st of March and we won't sit that day
6 because I understand how important it is for you to keep
7 that appointment. I'm going to remind you, again, not to
8 discuss the case with anyone. Not to let anyone discuss the
9 case with you. Not to read anything about the case and not
10 to conduct any research at all about the case, the issues,
11 the parties, or anything else related to this matter.

12 I know that at least one of you overheard
13 reporters talking about the case in the lobby and you
14 identified yourself as a juror told them not to speak about
15 the case around you, which was the right thing to you and
16 you walked away from that discussion. I'm going to ask the
17 reporters to please not discuss this case publicly in the
18 lobby area or in the other public areas of the courthouse
19 where jurors may be at any point in time. It is really
20 important to our system that you only rely on information
21 you hear in this courtroom. And so you should bring it to
22 my attention if at any time you're approached by anyone or
23 you overhear anyone discussing the case. And thank you to
24 the juror for walking away from that and for identifying
25 yourself as a juror to the reporters. So I wish you a great

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1907

1 weekend and I will see you at 930 on Monday morning.

2 (Jury exits)

3 THE COURT: Please be seated everyone. Is there
4 anything we need to discuss?

5 MR. AGNIFILO: Nothing from us, your Honor.

6 THE COURT: Okay.

7 MS. SMITH: Your Honor. The only thing we wanted
8 to raise --

9 THE COURT: One second, let's close the door. Go
10 ahead.

11 MS. SMITH: The only thing we wanted to raise, and
12 I -- for defense counsel is the jury instructions. We had
13 provided instructions for the Malaysian law piece in
14 November and then updated instructions January 5th. And we
15 provided all of our jury instructions to the defense on
16 January 28th and they're still working on them, and I would
17 just like to pick a time that the Court would like us to get
18 you the jury instructions and whatever disagreements we
19 have. Because I think, especially on the Malaysian law, we
20 might need expert litigation. And also, I think, for us, we
21 at least like to know if there are any issues with any of
22 the elements of any of the charges before we close the
23 Government's case. So if you can let us know what time you
24 need to, sort of, do that and we'll back into it on our end.

25 THE COURT: I assume counsel has been busy with

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1908

1 other matters and so have not have a chance to really look
2 at the jury instructions. Obviously to the extent we need
3 to litigate anything about the instructions, the Court will
4 need time to do so. I don't want to delay giving the case
5 to the jury because we're having trouble deciding on what's
6 a proper instruction. To the extent that the parties are in
7 agreement as to certain portions of the instructions, you
8 can send those to the Court. And let me know what you're
9 still working on and disagreeing about because I can
10 certainly start conducting my own research into any issues
11 if the parties do believe we need to hear from experts.
12 Then we need to set aside a date to do that. And it would
13 have to be on a Friday. So I wouldn't want to impose on the
14 jury.

15 MR. AGNIFIL0: From our perspective, since we got
16 a great deal of documentation, as your Honor knows, that
17 really concerns, for the most part, this witness.

18 THE COURT: Yes.

19 MR. AGNIFIL0: When this witness is off the stand,
20 I think, from our perspective, the complexion of the trial
21 will just become a normal trial, rather than a super-charged
22 trial. And we'll turn our attention very pointedly to the
23 jury instructions.

24 THE COURT: Understood. Do you have a better
25 sense now as to how much longer you will be on the stand

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1909

1 with Mr. Leissner?

2 MR. AGNIFILO: I'm guessing a finish Tuesday.

3 THE COURT: You finish Tuesday as opposed to
4 Monday?

5 MR. AGNIFILO: I will do everything in my power.
6 In my experience, it's always better to disappoint on the
7 good side court.

8 THE COURT: I understand.

9 MR. AGNIFILO: To disappoint early and not later.

10 THE COURT: I assume the Government has a witness
11 lined up who can be called last minute to show up on Monday
12 afternoon or Tuesday, if necessary?

13 MS. SMITH: Yes, your Honor. We have somebody on
14 standby here, but we are trying to plan for, like I said,
15 witnesses who were otherwise going to fly in from overseas
16 next week. Given Mr. Agnifilo's projection, I think we're
17 going to push these people to the week after and try to fill
18 the week with people in the U.S.

19 THE COURT: Okay. All right. Then I'll expect
20 additional briefing from the parties on the marriage
21 privilege issue.

22 MR. AGNIFILO: Yes. By the end of today.

23 MS. SMITH: And, your Honor, the Government is not
24 planning on filing anything further.

25 THE COURT: So I guess I read the papers that were

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1910

1 filed so far and the only question I have is that the
2 Government is arguing cumulative.

3 MS. SMITH: We believe it probably is. Obviously
4 without knowing specifically what the defense is going to
5 do. So we, sort of, put in that argument and then obviously
6 some of it may be conducted ex parte. So to the extent we
7 can lay in, we will. But if there are no specific
8 documents, we put in the law that make sense.

9 THE COURT: Right. So I can't rule on whether or
10 not the information is cumulative because I really don't
11 know what the information is. And I would have to go back
12 to see what, if any, information is already in the record.
13 So I just don't know that that's a valid defense at this
14 point.

15 MS. SMITH: Yes. And I think it's both the
16 extrinsic nature of what we believe is going to be argued
17 and the cumulative. And I agree though. It does depend on
18 specifically what the defense decides to put forth.

19 THE COURT: I will look forward to reading your
20 papers. Have a great weekend everyone.

21 (Matter adjourned to March 7, 2022 at 9:30 a.m.)

22
23
24
25

1 I N D E X

2

3 WITNESS4 PAGE

5 CROSS-EXAMINATION BY MR. AGNIFILO 1698

6

7 E X H I B I T S

8 Defendant's Exhibit 2213 1699

9 Government's Exhibit 1351A 1704

10 Government Exhibit 1351A 1706

11 Defendant's Exhibit 2215 1708

12 Government's Exhibit 2265 1710

13 Defendant's Exhibit 2219 1712

14 Defendant's Exhibit 2221 1715

15 Defendant's Exhibit 2222 1717

16 Defendant's Exhibit 2253 1724

17 Defendant's Exhibit 2255 1725

18 Defendant's Exhibit 2259 1728

19 Defendant's Exhibit 2261 1729

20 Defendant's Exhibit 2262 1733

21 Defendant's Exhibit 2264 1738

22 Defendant's Exhibit 2268 1741

23 Defendant's Exhibit 2269 1743

24 Defendant's Exhibit 2152 1745

25 Defendant's Exhibit 2302 1758

26 Defendant's Exhibit 2303 1760

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1	Defendant's Exhibit 2305	1764
2	Defendant's Exhibit 2306	1765
3	Defendant's Exhibit 36	1766
4	Defendant's Exhibit 2310	1768
5	Defendant's Exhibit 2313	1770
6	Defendant's Exhibit 2314	1771
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8	Defendant's Exhibit 2323	1782
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10	Defendant's Exhibit 1356A	1787
11	Defendant's Exhibit 2332	1790
12	Defendant's Exhibit 2333	1791
13	Defendant's Exhibit 2350	1792
14	Defendant's Exhibit 2367	1796
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16	Defendant's Exhibit 2379	1803
17	Defendant's Exhibit 2387	1804
18	Defendant's Exhibit 2389	1807
19	Defendant's Exhibit 2390	1810
20	Defendant's Exhibit 2396	1817
21	Defendant's Exhibit 2399	1819
22	Defendant's Exhibit 2400	1823
23	Defendant's Exhibit 2403	1825
24	Defendant's Exhibit 1353-A	1841
25		

1913

1	Government's Exhibit 1364-A was received in	
2	evidence as of this date	1845
3	Government'S Exhibit 1367-A	1847
4	Defendant's Exhibit 2407	1857
5	Defendant's Exhibit 2408	1859
6	Defendant's Exhibit 2409	1860
7	Government Exhibit 1882	1867
8	Defendant's Exhibit 2415	1877
9	Defendant's Exhibit 2421	1880
10	Defendant's Exhibit 2430	1884
11	Defendant's Exhibit 2433	1885
12	Defendant's Exhibit 2450	S1905
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